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March 8, 2024

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VIA EMAIL AND ECF

The Honorable David S. Jones
United States Bankruptcy Judge
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, New York 10004-1408

Re: In re Ascentra Holdings, Inc., Case No. 21-11854 (DSJ)

Dear Judge Jones:

We represent interested parties Shang Peng Gao Ke, Inc. SEZC and SPGK Pte. Ltd. (together, "SPGK"). We write pursuant to Your Honor's Chambers' Rules and Local Rule 7007-1(b) to request a discovery conference in connection with the parties' dispute concerning the unjustified refusal of Graham Robinson ("Mr. Robinson"), one of the Joint Official Liquidators (the "JOLs") of debtor-in-a-foreign-proceeding Ascentra Holdings, Inc. ("Ascentra") to provide any deposition testimony relating to the Restraint Termination Motion (defined below) topics (topics six through nine) listed in the Amended Notice of Deposition (the "Deposition Notice") attached hereto as **Exhibit A**.

SPGK submits that (i) pursuant to Rule 37(a)(3)(B)(i) of the Federal Rules of Civil Procedure (the "Federal Rules"), Mr. Robinson should be compelled to provide deposition testimony on these topics; (ii) if SPGK is required to make a motion to compel, SPGK should be awarded its reasonable expenses relating to that motion, including attorneys' fees pursuant to Federal Rule 37(a)(5)(a); and (iii) if Mr. Robinson continues to refuse to answer questions concerning topics six through nine, Ascentra should be precluded from offering any evidence concerning those topics at any evidentiary hearing concerning the Restraint Termination Motion.

Background

On February 29, 2024, in accordance with this Court's *Memorandum Decision and Order Denying Foreign Representatives' Application to Preclude Proposed Deposition* (the "Discovery Order") [ECF No. 80] dated December 5, 2023, SPGK conducted the deposition of Ascentra pursuant to Federal Rule 30(b)(6) in connection with its pending motions to terminate the recognition order (the "Dismissal Motion") and to terminate the restraint (the "Restraint Termination Motion") and collectively with the Dismissal Motion, the "Motions") of certain funds

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(the “Planet Payment Funds”).¹ Mr. Robinson testified as Ascentra’s designee. The first five 30(b)(6) topics relate to the Dismissal Motion, and as noted above, topics six through nine relate to the Restraint Termination Motion. See Exhibit A.

The Discovery Dispute

During Mr. Robinson’s deposition, the transcript of which (the “Robinson Transcript”) is attached hereto as Exhibit B, counsel for SPGK marked as Robinson Exhibit 8 a letter from Ascentra’s counsel to this Court dated October 11, 2023 [ECF No. 77] attaching an Amended Writ of Summons (the “Complaint”) filed against SPGK and related entities in the Cayman Grand Court. Thereafter, Ascentra’s counsel instructed Mr. Robinson not to answer any questions about the facts set out therein on the grounds that there is a pending proceeding, *see, e.g., id.* at 124:19-127:9, and on the grounds of attorney-client privilege, *see, e.g., id.* at 130:2-131:5.

Indeed, Ascentra’s counsel instructed the witness on all of SPGK’s questions regarding each of deposition topics six through nine:

Q. Look at topic 6. Can you identify for me the documents that the foreign representatives contend support their assertion that they can establish a likelihood of success on the merits with respect to their contractual basis for entitlement to the Planet Payment funds?

Mr. McDonald: Objection. I direct the witness not to answer on the basis of a pending proceeding.

Q. Are you going follow counsel’s advice?

A. Yes.

Q. Can you turn the page, please, to number 7. Can you describe for me all facts that the foreign representatives contend support their assertion that they can establish a likelihood of success on the merits with respect to a contractual basis for entitlement to the Planet Payment funds?

Mr. McDonald: The same objection. The same direction. Also calls for divulging attorney-client communications.

Q. You are going to follow counsel’s advise?

A. Yes.

Id. at 128:12-129:15.

Q. Looking at topic number 8, can you please tell me all of the documents that the foreign representatives contend support their assertion that they can establish

¹ Pursuant to this Court’s Second Order Modifying Motions Deadlines and Setting Discovery Deadlines and Hearing Date [ECF No. 76], SPGK’s replies in further support of the Motions must be filed two weeks after the completion of the 30(b)(6) deposition of Ascentra. SPGK submits that in light of Ascentra’s failure to fully provide deposition testimony on February 29th, the deposition of Ascentra is not “complete.”

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a likelihood of success on the merits with respect to an equitable basis for entitlement to the Planet Payment funds.

Mr. McDonald: The same objection. The same direction.

Id. at 130:2-10.

Q. Number 9. Can you please share with us the facts that the foreign representatives contend support their assertion that they can establish a likelihood of success on the merits with respect to an equitable basis for entitlement to the Planet Payment funds?

Mr. McDonald: The same objection. The same direction.

Q. Are you going to follow counsel's advice?

A. Yes.

Id. at 131:6-17.

Thereafter, counsel engaged in the following colloquy:

Mr. Morris: Hold it. Before we go off the record. Are you going to direct him not to answer any question that concerns any allegation or assertion that's set forth in the complaint?

Mr. McDonald: Yes.

Mr. Morris: And if you are given those directions, do you intend to follow them?

The Witness: Yes. . . .

Mr. Morris: I have no further questions. You know, subject to the reservation of rights that I made early on about either seeking a preclusion order or motion to compel. But I don't want to waste anybody's time here.

Id. at 134:8-18; 136:10-15.

Consistent with its reservation of rights at the deposition, SPGK now seeks this Court's intervention in connection with Ascentra's blanket refusal to provide deposition testimony relevant to the Restraint Termination Motion.

Basis for Relief Requested

SPGK is entitled to testimony on the deposition topics relating to the Restraint Termination Motion so that it can litigate, among other things, Ascentra's likelihood of success on the merits. Notwithstanding this, as detailed above, Ascentra's counsel instructed Mr. Robinson not to answer questions relating to the facts and documents supporting Ascentra's contractual and equitable claims to the Planet Payment Funds because there is now an action (filed **after** the Restraint Termination Motion, and based largely on the deposition of SPGK taken in this contested matter)

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pending in the Cayman Grand Court. But as this Court held in the Discovery Order, “the pending proceeding rule applies to preclude discovery that is sought pursuant to Bankruptcy Rule 2004. . . . Therefore, because SPGK seeks discovery under Rules 7026 and 7030 rather than Rule 2004, **the pending proceeding rule is inapplicable here.**” Discovery Order at 32-33 (emphasis added). As this Court stated: “where, as here, discovery is sought pursuant to Rules 7026 and 7030 instead of Rule 2004, the fairness concerns that drive the pending proceeding rule are not implicated, and the rule need not **(and does not)** apply.” *Id.* at 33-34 (emphasis added).

Further, during the December 21, 2023 status conference, the Court directly addressed Ascentra’s purported privilege concerns:

I think more commonly what I see, and what I think avoids a possible real privilege and work product leaking back out through a client, is if you just ask about the facts and issues.

Transcript of December 21, 2023 status conference (attached hereto as **Exhibit C**) at 34:3-6.

Hewing closely to the Court’s guidelines, SPGK asked only about facts and documents that Ascentra believes support its contention that it likely to succeed on the merits of its contractual and equitable claims to the Planet Payment funds.

The JOLs cannot use the pendency of the Cayman litigation as a sword to seek relief and a shield to protect them from having to meet the likelihood of success standard required by Chapter 15 to justify the restraint. To the extent that Mr. Robinson was instructed not to testify about facts and issues relating to the entitlement to the Planet Payment Funds (as opposed to information truly protected by the attorney client privilege and the work product doctrine), he should be compelled to provide deposition testimony on those facts and issues. To the extent that he does not provide deposition testimony on the basis of privilege or otherwise, Ascentra should be precluded from testifying or offering documents on those topics at the evidentiary hearing on the Restraint Termination Motion.

Good Faith Effort to Resolve

On March 5, 2024, prior to requesting this conference, and in accordance with Local Rule 7007-1(a), the undersigned contacted opposing counsel by email in an attempt to confer regarding this discovery dispute. On March 7, 2024, I received a response to my email in which opposing counsel indicated that the JOLs are opposed to the relief that SPGK seeks. Accordingly, we respectfully request that this Court set a conference on this matter and adjourn the response deadline for the reply in support of the Restraint Termination Motion.

Respectfully,

/s/ John A. Morris

John A. Morris

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cc: Hugh M. McDonald, Esq. (via email)
John A. Pintarelli, Esq. (via email)

EXHIBIT A

John A. Morris, Esq.
Beth E. Levine, Esq.
Jeffrey M. Dine, Esq.
PACHULSKI STANG ZIEHL & JONES LLP
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Counsel for Shang Peng Gao Ke Inc. SEZC and SPGK Pte Ltd

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

-----X	:	
	:	
In re	:	Case No. 21-11854-dsj
	:	
ASCENTRA HOLDINGS, INC.	:	Chapter 15
(in Official Liquidation), ¹	:	
	:	
Debtor in a foreign proceeding.	:	
-----X		

AMENDED NOTICE OF DEPOSITION OF ASCENTRA HOLDINGS, INC.

PLEASE TAKE NOTICE that pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure, made applicable herein pursuant to Rule 9014 of the Federal Rules of Bankruptcy Procedure, interested parties Shang Peng Gao Ke Inc. SEZC and SPGK Pte Ltd (together, “SPGK”), will take the testimony upon oral examination of Ascentra Holdings, Inc. (“Debtor”) in connection with SPGK’s Motion Pursuant to 11 U.S.C. §§ 1517(d) and 1520(c) for an Order Terminating the Recognition Order (ECF No. 37) by the person(s) most qualified to testify on the Debtor’s behalf with respect to the subject matters described in **Exhibit A** hereto, commencing at 9:30 a.m. on February 29, 2024.

¹ The Debtor’s company registration number is 283719. The Debtor’s registered office is c/o JTC (Cayman) Ltd., 94 Solaris Avenue, Second Floor, Camana Bay, PO Box 30745, Grand Cayman, Cayman Islands, KY1-1203.

The deposition will take place at the offices of Pachulski Stang Ziehl & Jones LLP, 780 Third Avenue 34th Floor, New York, NY 10017, or at such other place as may be agreed by the parties. The deposition by oral examination will be taken before a notary public or an officer authorized by law to administer oaths upon oral examination and will be recorded by a certified court reporter by stenographic method including the use of real-time or otherwise, and/or by audio or video recording, and may be conducted by videoconference service.

Dated: January 30, 2024

PACHULSKI STANG ZIEHL & JONES LLP

/s/ John A. Morris

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*Counsel to Shang Peng Gao Ke Inc. SEZC
and SPGK Pte Ltd*

EXHIBIT A TO THE NOTICE OF DEPOSITION OF ASCENTRA HOLDINGS, INC.

DEFINITIONS

1. “Ascentra” means debtor in a foreign proceeding Ascentra Holdings, Inc.
2. “Cayman Proceeding” means the proceeding in the Grand Court of the Cayman Islands, *In the matter of Ascentra Holdings, Inc (in voluntary liquidation)*, FSD NO. 189 of 2021-DDJ.
3. “Concerning” means and includes relating to, constituting, defining, evidencing, mentioning, containing, describing, discussing, embodying, reflecting, edifying, analyzing, stating, referring to, dealing with, or in any way pertaining to the subject matter.
4. “Foreign Representatives” means Graham Robinson and Ivy Chua Suk Lin, the duly appointed joint official liquidators and foreign representatives of Ascentra Holdings, Inc.
5. “JOLs” means the Joint Official Liquidators of Ascentra.
6. “Proof of Debt” means any proof of debt provided by a purported Creditor to the JOLs or filed in the Cayman Proceeding.
7. The “Recognition Date” is the date of the Order Granting Recognition and Relief in Aid of a Foreign Main Proceeding pursuant to Sections 1504, 1509, 1515, 1517, 1520 and 1521 of the Bankruptcy Code in this case (ECF No. 22), December 6, 2021.

AMENDED TOPICS

Proceeding Termination Motion:

1. Whether Ascentra ever changed the Certificate of Solvency filed in the Cayman Proceeding on September 23, 2021.
2. (a) The number of creditors of Ascentra existing at date of commencement of the liquidation and the aggregate amount of its obligations to those creditors;

- (b) whether any obligation of Ascentra to any creditor existing as of the date commencement of liquidation has not been paid in the ordinary course; and
- (c) whether there are any obligations of Ascentra to any creditors that existed as of the commencement of the liquidation that have not been paid in full as of the date of the deposition, and reasons therefor.
3. Financial distress of Ascentra, as set out in the JOLs' letter to the Bankruptcy Court dated September 20, 2023 (ECF# 71).
4. (a) The Proofs of Debt requested by the JOLs or asserted by or on behalf of any purported creditor after the Recognition Date, or any objection by the JOLs to any Proof of Debt;
- (b) whether the admission of any unadjudicated Proof of Debt would render Ascentra insolvent or of doubtful solvency; and
- (c) whether the JOLs have put an estimate on any contingent claim asserted in any proof of debt.
5. Any application for sanction or other request for relief, formal or informal, made in the Cayman Proceeding by any purported creditor after the Recognition Date

Restraint Termination Motion:

6. The documents that the Foreign Representatives contend support their assertion that they can establish a likelihood of success on the merits with respect to a contractual basis for entitlement to the Planet Payment Funds, *see Foreign Representatives' Objection to Motion of Shang Peng Gao Ke Inc. SEZC and SPGK PTE Ltd. Pursuant to 11 U.S.C § 1522(c) to Terminate Restraint* [Docket No. 62] (the "Restraint Termination Opposition") at 27, as the term "Planet Payment Funds" is defined therein.

7. The facts that the Foreign Representatives contend support their assertion that they can establish a likelihood of success on the merits with respect to a contractual basis for entitlement to the Planet Payment Funds. *See id.*
8. The documents that the Foreign Representatives contend support their assertion that they can establish a likelihood of success on the merits with respect to an equitable basis for entitlement to the Planet Payment Funds. *See id.*
9. The facts that the Foreign Representatives contend support their assertion that they can establish a likelihood of success on the merits with respect to an equitable basis for entitlement to the Planet Payment Funds. *See id.*

EXHIBIT B

GRAHAM ROBINSON 30(b)(6)
In Re Ascentra Holdings Inc.

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<p style="text-align: right;">Page 1</p> <p>1 IN THE UNITED STATES BANKRUPTCY COURT 2 FOR THE SOUTHERN DISTRICT OF NEW YORK 3 -----x 4 In re 5 ASCENTRA HOLDINGS, INC. (In Official 6 Liquidation), Chapter 15 7 Case No.21-11854(DSJ) 8 9 Debtor in a 10 Foreign Proceeding. 11 -----x 12 13 14 VIDEOTAPED 30(b)(6) DEPOSITION 15 OF 16 ASCENTRA HOLDINGS, INC. 17 By: GRAHAM ROBINSON, Corporate Representative 18 New York, New York 19 Thursday, February 29, 2024 20 21 22 23 24 Reported by: Frank J. Bas, RPR, CRR 25 Job No. J10806182</p>	<p style="text-align: right;">Page 3</p> <p>1 A P P E A R A N C E S: 2 3 PILLSBURY WINTHROP SHAW PITTMAN LLP Attorneys for Petitioners 4 31 West 52nd Street New York, New York 10019 5 6 BY: HUGH M. McDONALD, ESQ. (hugh.mcdonald@pillsburylaw.com) JOHN A. PINTARELLI, ESQ. (john.pintarelli@pillsburylaw.com) 7 8 9 CAMPBELLS LLP JOLs Cayman Islands Counsel 10 Floor 4, Willow House, Cricket Square Grand Cayman KY1-9010 11 Cayman Islands 12 BY: GUY COWAN, ESQ. (gcowan@campbellslegal.com) 13 14 KATIE LOGAN, ESQ.(Via Zoom) (klogan@campbellslegal.com) 15 16 BLAIR LEAHY KC (Via Zoom) For Joint Liquidators of Ascentra Holdings 17 20 Essex St. Chambers London, England, United Kingdom (bleahy@twentyessex.com) 18 19 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 2</p> <p>1 2 3 February 29, 2024 4 9:38 a.m. EST 5 6 Videotaped 30(b)(6) Deposition of ASCENTRA 7 HOLDINGS, INC., by GRAHAM ROBINSON, Corporate 8 Representative, held at the offices of Pachulski Stang 9 Ziehl & Jones, 780 Third Avenue, New York, New York, 10 before Frank J. Bas, a Registered Professional 11 Reporter, Certified Realtime Reporter, and Notary 12 Public of the State of New York. 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 A P P E A R A N C E S: 2 3 PACHULSKI STANG ZIEHL JONES LLP Attorneys for SPGK Pte. Ltd. 780 Third Avenue, 34th Floor 4 New York, New York 10017 5 BY: JOHN A. MORRIS, ESQ. BETH E. LEVINE, ESQ. JEFFREY DINE, ESQ. (jmorris@pszjlaw.com) (blevine@pszjlaw.com) (jdine@pszjlaw.com) 6 7 8 9 10 HARNEY WESTWOOD & RIEGELS 3rd Floor, Harbour Place 103 South Church Street 11 Grand Cayman PO Box 10240 KY1-1002 12 Cayman Islands 13 14 BY: CAITLIN MURDOCK, ESQ. (caitlin.murdock@harneys.com) 15 16 ALSO PRESENT: DMITRY ZVONKOV, Videographer RYUNOSUKE "LUKE" YOSHIDA 17 18 (APPEARING VIA ZOOM): 19 NIENKE LILLINGTON, Campbells SUI HUNG YEUNG, Harneys 20 ALIANA DODDS, Campbells MINNA WU, Harneys 21 KELSEY SABINE, Harneys 22 23 24 - o0o - 25</p>

GRAHAM ROBINSON 30(b)(6)
In Re Ascentra Holdings Inc.

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<p style="text-align: right;">Page 5</p> <p>1 G. ROBINSON</p> <p>2 THE VIDEOGRAPHER: We are on the</p> <p>3 record. Today's date is February 29,</p> <p>4 2024. The time on the video is</p> <p>5 9:38 a.m.</p> <p>6 This is video 1 in the deposition</p> <p>7 of Graham Robinson In Re Ascentra</p> <p>8 Holdings, Inc., in the U.S. Bankruptcy</p> <p>9 Court, Southern District of New York.</p> <p>10 Case No. 21-11854(DSJ).</p> <p>11 This deposition is taking place at</p> <p>12 780 Third Avenue, New York, New York.</p> <p>13 The videographer is Dmitry Zvonkov, the</p> <p>14 court reporter is Frank Bas, both with</p> <p>15 Esquire.</p> <p>16 Will counsel please identify</p> <p>17 themselves for the record.</p> <p>18 MR. MORRIS: John Morris, Pachulski</p> <p>19 Stang Ziehl & Jones, for SPGK.</p> <p>20 THE COURT REPORTER: Just the main</p> <p>21 players, that's fine.</p> <p>22 MR. McDONALD: Hugh McDonald,</p> <p>23 Pillsbury Winthrop, for the witness,</p> <p>24 Mr. Robinson.</p> <p>25 THE VIDEOGRAPHER: Will the</p>	<p style="text-align: right;">Page 7</p> <p>1 G. ROBINSON</p> <p>2 A. Once.</p> <p>3 Q. And how long ago was that?</p> <p>4 A. Good question. I would say 2018.</p> <p>5 Q. And was it in a personal capacity</p> <p>6 or in a professional capacity?</p> <p>7 A. Professional capacity.</p> <p>8 Q. Was it in the United States or was</p> <p>9 it elsewhere?</p> <p>10 A. In the United States.</p> <p>11 Q. Okay. So I don't know how much of</p> <p>12 that you remember, it's six years ago, but</p> <p>13 really general ground rules:</p> <p>14 I'm not here to trick you. I'm</p> <p>15 going to ask you a series of questions. It's</p> <p>16 very important that you allow me to complete</p> <p>17 my question before you begin your answer.</p> <p>18 Is that fair?</p> <p>19 A. Understood.</p> <p>20 Q. And it's very important for me to</p> <p>21 allow you to complete your answer before I</p> <p>22 begin the next question. And if I fail to do</p> <p>23 that, will you let me know?</p> <p>24 A. Yes.</p> <p>25 Q. If at any time I ask a question</p>
<p style="text-align: right;">Page 6</p> <p>1 G. ROBINSON</p> <p>2 reporter please swear in the witness.</p> <p>3 ---</p> <p>4</p> <p>5 GRAHAM ROBINSON,</p> <p>6 called as a witness, having been first duly</p> <p>7 sworn by a Notary Public, was examined and</p> <p>8 testified</p> <p>9 as follows:</p> <p>10 EXAMINATION BY</p> <p>11 MR. MORRIS:</p> <p>12 Q. Good morning, Mr. Robinson.</p> <p>13 A. Good morning.</p> <p>14 Q. My name is John Morris. I'm an</p> <p>15 attorney at Pachulski Stang Ziehl & Jones, and</p> <p>16 we represent SPGK in connection with the</p> <p>17 Ascentra Chapter 15 proceeding. Thank you</p> <p>18 very much for coming to New York.</p> <p>19 Do you understand that we're here</p> <p>20 for your deposition today?</p> <p>21 A. Yes.</p> <p>22 Q. And have you ever been deposed</p> <p>23 before, sir?</p> <p>24 A. Yes.</p> <p>25 Q. How many times?</p>	<p style="text-align: right;">Page 8</p> <p>1 G. ROBINSON</p> <p>2 that you don't understand, will you let me</p> <p>3 know that, too?</p> <p>4 A. Okay.</p> <p>5 Q. Okay. If you need a break at any</p> <p>6 time, feel free to let me know that, as long</p> <p>7 as a question is not pending.</p> <p>8 Is that fair?</p> <p>9 A. Understood.</p> <p>10 Q. Okay.</p> <p>11 MR. McDONALD: John, just before we</p> <p>12 go on, it's not his personal deposition.</p> <p>13 He's here as the foreign representative</p> <p>14 of Ascentra. You've noticed this --</p> <p>15 MR. PINTARELLI: Somebody's device</p> <p>16 is on so it's echoing. Is the Zoom</p> <p>17 connected too?</p> <p>18 (Pause in proceedings.)</p> <p>19 MR. MORRIS: I agree. He's not</p> <p>20 here in his individual -- as a personal</p> <p>21 deposition. He's here as a</p> <p>22 representative of the estate.</p> <p>23 MR. McDONALD: Correct. You've</p> <p>24 noticed this as a 30(b)(6). And he's</p> <p>25 here as the foreign representative, as a</p>

GRAHAM ROBINSON 30(b)(6)
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<p style="text-align: right;">Page 9</p> <p>1 G. ROBINSON</p> <p>2 representative of the Ascentra Holdings</p> <p>3 estate.</p> <p>4 THE COURT REPORTER: Can we go off</p> <p>5 the record?</p> <p>6 MR. MORRIS: I think we should.</p> <p>7 THE VIDEOGRAPHER: Are we going off</p> <p>8 the record?</p> <p>9 THE COURT REPORTER: Yes.</p> <p>10 THE VIDEOGRAPHER: This ends</p> <p>11 media 1. We're going off the record at</p> <p>12 9:42.</p> <p>13 (Pause in proceedings.)</p> <p>14 THE VIDEOGRAPHER: This begins</p> <p>15 media 2. On the record at 9:46.</p> <p>16 BY MR. MORRIS:</p> <p>17 Q. Okay. Back on the record.</p> <p>18 Mr. Robinson, you serve as one of</p> <p>19 the joint official liquidators for an entity</p> <p>20 called Ascentra Holdings, Inc., is that</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. When did you become a</p> <p>24 liquidator of that entity?</p> <p>25 A. A voluntary liquidator or official</p>	<p style="text-align: right;">Page 11</p> <p>1 G. ROBINSON</p> <p>2 got --</p> <p>3 MR. McDONALD: Can we --</p> <p>4 MR. PINTARELLI: Graham, it's okay</p> <p>5 to answer. All of the information is</p> <p>6 public. It's in the public filing in</p> <p>7 the U.S., verified petitions, so it's</p> <p>8 okay.</p> <p>9 THE WITNESS: It's in the public</p> <p>10 filing, okay.</p> <p>11 Q. Before you answer I want to make</p> <p>12 something really clear here.</p> <p>13 A. Yes.</p> <p>14 Q. So I am going to ask questions, and</p> <p>15 from time to time Mr. McDonald might object.</p> <p>16 A. Understood.</p> <p>17 Q. And when he objects, sometimes he's</p> <p>18 objecting because he's trying to preserve the</p> <p>19 record because he thinks there's something</p> <p>20 improper about the question from an</p> <p>21 evidentiary point of view. That gives me the</p> <p>22 opportunity to either correct the question, if</p> <p>23 I agree with him, or say I don't really care,</p> <p>24 for whatever reason in my head, and you'll</p> <p>25 answer the question.</p>
<p style="text-align: right;">Page 10</p> <p>1 G. ROBINSON</p> <p>2 liquidator?</p> <p>3 Q. Let's start with voluntary.</p> <p>4 A. That was the 1st of June 2021, I</p> <p>5 believe.</p> <p>6 Q. And you became the official</p> <p>7 liquidator in September?</p> <p>8 A. 17th of September 2021.</p> <p>9 Q. Okay. How did you come to be</p> <p>10 the voluntary liquidator for Ascentra</p> <p>11 Holdings, Inc.?</p> <p>12 A. I was appointed via the shareholder</p> <p>13 resolutions.</p> <p>14 Q. And do you recall who the</p> <p>15 shareholders were?</p> <p>16 A. Of Ascentra Holdings?</p> <p>17 Q. Yes, sir.</p> <p>18 A. I do, yes.</p> <p>19 Q. And who were they at the time that</p> <p>20 you were appointed?</p> <p>21 A. I am slightly uncertain whether</p> <p>22 under Cayman law you would be entitled to know</p> <p>23 who the shareholders of Ascentra are.</p> <p>24 Q. Are you not going to tell me?</p> <p>25 A. I'm happy to tell you. But I've</p>	<p style="text-align: right;">Page 12</p> <p>1 G. ROBINSON</p> <p>2 He may also from time to time</p> <p>3 specifically direct you not to answer a</p> <p>4 question, and he and I will discuss why he's</p> <p>5 doing that so I understand the basis for it.</p> <p>6 If he doesn't direct you not to answer a</p> <p>7 question -- and, you know, Mr. MacDonald will</p> <p>8 give you the ultimate advice -- but as a</p> <p>9 general matter, if he doesn't direct you not</p> <p>10 to answer, you should answer the question.</p> <p>11 Okay?</p> <p>12 MR. MORRIS: Is that fair, Hugh?</p> <p>13 MR. McDONALD: And to the extent</p> <p>14 that you believe that your answer may</p> <p>15 implicate the attorney-client privilege,</p> <p>16 please let us know, and then we can</p> <p>17 consult. Okay?</p> <p>18 MR. MORRIS: Yes.</p> <p>19 Q. To be very clear, if in your head</p> <p>20 you think the divulging -- you know, answering</p> <p>21 a question will violate a duty or a law or an</p> <p>22 obligation on your part, we'll take a break,</p> <p>23 and you can consult with Mr. MacDonald and</p> <p>24 we'll figure out how to go forward. Okay?</p> <p>25 A. Okay. Yes.</p>

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<p style="text-align: right;">Page 13</p> <p>1 G. ROBINSON</p> <p>2 Q. All right?</p> <p>3 So let's go back to where I was.</p> <p>4 Do you recall who the shareholders were who</p> <p>5 appointed you as the voluntary liquidator?</p> <p>6 A. Of Ascentra Holdings?</p> <p>7 Q. Yes. Sir.</p> <p>8 A. IR-P Holdings Limited. INTL Media.</p> <p>9 And the other shareholders are Jeffrey</p> <p>10 Boshears.</p> <p>11 Ryan -- I can't remember Ryan's</p> <p>12 name. It begins with K.</p> <p>13 And Alex Olivia. Or Oliva. Oliva.</p> <p>14 Q. Do you know who the principal was</p> <p>15 of IR-P who appointed you on behalf of that</p> <p>16 entity?</p> <p>17 A. The liquidator of IR-P Holdings.</p> <p>18 Q. And what's that person's name?</p> <p>19 A. That person's name is me.</p> <p>20 Q. And when did you become the</p> <p>21 liquidator of IR-P?</p> <p>22 A. I became the liquidator of --</p> <p>23 voluntary liquidator of IR-P Holdings on the</p> <p>24 28th of May 2021.</p> <p>25 Q. And so as the liquidator of IR-P,</p>	<p style="text-align: right;">Page 15</p> <p>1 G. ROBINSON</p> <p>2 Q. And did you have an understanding</p> <p>3 at that time as to who Campbells represented?</p> <p>4 A. Yes.</p> <p>5 Q. And what was your understanding as</p> <p>6 to who Campbells represented at the time they</p> <p>7 approached you about the possibility of</p> <p>8 serving as the voluntary liquidator?</p> <p>9 A. They represented, I believe, or</p> <p>10 acted for Marty Matthews.</p> <p>11 Q. And who at Campbells first</p> <p>12 approached you about this potential</p> <p>13 engagement?</p> <p>14 A. Guy Cowan.</p> <p>15 Q. And do you recall what Mr. Cowan</p> <p>16 told you about the potential engagement?</p> <p>17 MR. McDONALD: Objection.</p> <p>18 A. I would say that the conversations</p> <p>19 I had with Guy Cowan would be privileged.</p> <p>20 Q. At the time that he approached you</p> <p>21 had you been appointed --</p> <p>22 A. No.</p> <p>23 Q. -- in any capacity?</p> <p>24 MR. McDONALD: Let him finish the</p> <p>25 question.</p>
<p style="text-align: right;">Page 14</p> <p>1 G. ROBINSON</p> <p>2 you voted as that entity in its capacity as a</p> <p>3 contributory to Ascentra Holdings, Inc. to</p> <p>4 appoint you as the voluntary liquidator of</p> <p>5 that company, is that right?</p> <p>6 A. Yes.</p> <p>7 Q. Do you know who the principal was</p> <p>8 at -- I think you said INTL?</p> <p>9 A. (Nodding head affirmatively.)</p> <p>10 Q. -- who acted to appoint you the</p> <p>11 voluntary liquidator of Ascentra Holdings,</p> <p>12 Inc.?</p> <p>13 A. I do. That was Marty Matthews.</p> <p>14 THE COURT REPORTER: Can you spell</p> <p>15 the name?</p> <p>16 THE WITNESS: Marty. It's Martin</p> <p>17 Matthews, but he goes as Marty.</p> <p>18 M-A-R-T-Y.</p> <p>19 Q. And how did it come to be; can you</p> <p>20 recall the circumstances under which you</p> <p>21 became the voluntary liquidator of Ascentra</p> <p>22 Holdings, Inc.? Do you recall who approached</p> <p>23 you?</p> <p>24 A. I was approached by Campbells</p> <p>25 attorneys in the Cayman Islands.</p>	<p style="text-align: right;">Page 16</p> <p>1 G. ROBINSON</p> <p>2 THE WITNESS: Sorry.</p> <p>3 Q. At the time that he approached you</p> <p>4 about the possibility of serving, is it your</p> <p>5 contention that there was some type of</p> <p>6 privilege relationship?</p> <p>7 MR. McDONALD: John, I've given you</p> <p>8 a lot of latitude here. We have</p> <p>9 specific topics on the 30(b)(6). He's</p> <p>10 not here, again, in his personal</p> <p>11 capacity. He's here as the</p> <p>12 representative to answer questions</p> <p>13 concerning specific topics, not the</p> <p>14 circumstances surrounding his</p> <p>15 appointment.</p> <p>16 MR. MORRIS: Okay.</p> <p>17 MR. McDONALD: I've given you a lot</p> <p>18 of latitude up until now, but you're</p> <p>19 going beyond the scope of this</p> <p>20 deposition.</p> <p>21 MR. MORRIS: Okay. Is it your</p> <p>22 position that I'm not allowed to ask any</p> <p>23 questions unless they specifically</p> <p>24 relate to the topics?</p> <p>25 MR. McDONALD: Yes. We have</p>

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<p style="text-align: right;">Page 17</p> <p>1 G. ROBINSON</p> <p>2 specific enumerated topics. We've gone</p> <p>3 over this with the Court. Our objection</p> <p>4 to four of them still stands, and we'll</p> <p>5 deal with them when you get to them.</p> <p>6 But I've given you a lot of latitude.</p> <p>7 Again, he is not here in his individual</p> <p>8 personal capacity.</p> <p>9 MR. MORRIS: I appreciate that.</p> <p>10 And I am going to tell you our position</p> <p>11 is that the 30(b)(6) topics are the</p> <p>12 topics in which he had an affirmative</p> <p>13 obligation to educate himself. It</p> <p>14 doesn't mean that I'm not allowed to ask</p> <p>15 any question. I've never in my life</p> <p>16 heard in a 30(b)(6) deposition that I</p> <p>17 can't ask a question. Because otherwise</p> <p>18 I would have had to put in the topic</p> <p>19 "Background," how were you appointed.</p> <p>20 Like, I might as well have put in my</p> <p>21 outline.</p> <p>22 But that's our position. I have</p> <p>23 heard your position. I am going to ask</p> <p>24 my questions, and you can feel free to</p> <p>25 direct him not to answer any time you</p>	<p style="text-align: right;">Page 19</p> <p>1 G. ROBINSON</p> <p>2 to do any work with respect to Ascentra prior</p> <p>3 to the time you accepted the appointment of</p> <p>4 voluntary liquidator on or about June 1, 2021?</p> <p>5 MR. McDONALD: Objection.</p> <p>6 Direct the witness not to answer.</p> <p>7 Q. Are you going to follow your</p> <p>8 counsel's advice?</p> <p>9 A. Yes.</p> <p>10 Q. Did you ever do any work on behalf</p> <p>11 of Ascentra prior to June 1, 2021?</p> <p>12 A. No.</p> <p>13 DIR Q. Did you have any relationship with</p> <p>14 any of Ascentra's principals prior to the time</p> <p>15 you accepted the appointment on June 1, 2021?</p> <p>16 MR. McDONALD: Objection.</p> <p>17 Direct the witness not to answer.</p> <p>18 Q. Are you going to follow your</p> <p>19 counsel's advice?</p> <p>20 A. Yes.</p> <p>21 Q. Did your work as the voluntary</p> <p>22 liquidator of IR-P concern Ascentra in any way</p> <p>23 prior to June 1, 2021?</p> <p>24 MR. McDONALD: Objection to form.</p> <p>25 A. You're going to have to rephrase</p>
<p style="text-align: right;">Page 18</p> <p>1 G. ROBINSON</p> <p>2 want.</p> <p>3 Is that fair?</p> <p>4 MR. McDONALD: Fair.</p> <p>5 MR. MORRIS: Okay.</p> <p>6 DIR Q. Do you recall what Mr. Cowan told</p> <p>7 you initially when he approached you about the</p> <p>8 possibility of serving as the voluntary</p> <p>9 liquidator of Ascentra?</p> <p>10 MR. McDONALD: Objection.</p> <p>11 Direct the witness not to answer.</p> <p>12 Q. Are you going to follow your</p> <p>13 counsel's advice?</p> <p>14 A. Yes.</p> <p>15 Q. Okay. How long in advance of your</p> <p>16 acceptance of the appointment did Mr. Cowan</p> <p>17 approach you?</p> <p>18 MR. McDONALD: Objection to form.</p> <p>19 A. So when -- you're asking me when I</p> <p>20 was first approached by Campbells prior to me</p> <p>21 being appointed?</p> <p>22 Q. Yes, sir.</p> <p>23 A. This is from memory. I would say</p> <p>24 it would be in some period of time in 2020.</p> <p>25 DIR Q. Okay. Were you engaged by anybody</p>	<p style="text-align: right;">Page 20</p> <p>1 G. ROBINSON</p> <p>2 that question. It doesn't make sense.</p> <p>3 Q. Okay. I think you mentioned -- you</p> <p>4 mentioned that you became the voluntary</p> <p>5 liquidator of IR-P on May 28, 2021.</p> <p>6 A. Okay.</p> <p>7 Q. In your capacity as the voluntary</p> <p>8 liquidator of that entity, did you do anything</p> <p>9 that concerned Ascentra before you accepted</p> <p>10 the appointment as Ascentra's voluntary</p> <p>11 liquidator?</p> <p>12 MR. McDONALD: Objection to form.</p> <p>13 Q. And this is where you can answer.</p> <p>14 If you understand. If you don't, I can try</p> <p>15 again.</p> <p>16 A. No.</p> <p>17 Q. Okay. Do you know when --</p> <p>18 withdrawn.</p> <p>19 Has Ascentra -- withdrawn.</p> <p>20 Is Ascentra a holding company?</p> <p>21 MR. McDONALD: Objection to form.</p> <p>22 MR. MORRIS: Withdrawn.</p> <p>23 Q. Do you understand what a holding</p> <p>24 company is, sir?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 21</p> <p>1 G. ROBINSON</p> <p>2 Q. What's your understanding of a</p> <p>3 holding company?</p> <p>4 A. A holding company is a, what I</p> <p>5 would say is the top co. of a group structure,</p> <p>6 and underneath will be numerous entities, and</p> <p>7 the shareholding flows eventually to the top</p> <p>8 co.</p> <p>9 Q. Is it your understanding that</p> <p>10 Ascentra was a holding company?</p> <p>11 A. I considered it a holding co., yes.</p> <p>12 Q. And it had certain entities that it</p> <p>13 directly or indirectly owned that -- conducted</p> <p>14 the operations of the Ascentra enterprise, is</p> <p>15 that fair?</p> <p>16 A. Yes.</p> <p>17 Q. Okay. I am going to use the phrase</p> <p>18 "Ascentra" to refer to the whole enterprise;</p> <p>19 not just Ascentra Holdings, Inc., but also to</p> <p>20 its direct and indirect affiliates who carried</p> <p>21 out the operations.</p> <p>22 Is that fair?</p> <p>23 A. Yes.</p> <p>24 Q. And if I want to refer specifically</p> <p>25 to the entity that filed the Chapter 15</p>	<p style="text-align: right;">Page 23</p> <p>1 G. ROBINSON</p> <p>2 was conducted exclusively through the names of</p> <p>3 the direct and indirect subsidiaries?</p> <p>4 MR. McDONALD: Objection.</p> <p>5 I direct the witness not to answer.</p> <p>6 (Reporter requests clarification.)</p> <p>7 Q. Are you going to follow counsel's</p> <p>8 advice?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Do you serve as a liquidator</p> <p>11 for any entity that was directly or indirectly</p> <p>12 controlled by Ascentra Holdings, Inc.?</p> <p>13 A. Yes.</p> <p>14 Q. Can you identify each entity?</p> <p>15 A. I am currently the official</p> <p>16 liquidator of HEC International Limited.</p> <p>17 I was the voluntary liquidator of</p> <p>18 Interush (Singapore), which is now closed and</p> <p>19 been dissolved.</p> <p>20 And I believe I am the liquidator</p> <p>21 of -- at the HEC International (Taiwan)</p> <p>22 company.</p> <p>23 Q. Did you become -- apologies.</p> <p>24 Was that in an official capacity or</p> <p>25 as a voluntary liquidator?</p>
<p style="text-align: right;">Page 22</p> <p>1 G. ROBINSON</p> <p>2 proceeding in New York, I'll say "Ascentra</p> <p>3 Holdings, Inc."</p> <p>4 A. Okay.</p> <p>5 Q. That's the distinction that I am</p> <p>6 making.</p> <p>7 A. Okay. Yes.</p> <p>8 Q. So with that distinction, do you --</p> <p>9 is Ascentra engaged in any operations today?</p> <p>10 A. (No response.)</p> <p>11 MR. MORRIS: Withdrawn.</p> <p>12 Q. As of today is Ascentra engaged in</p> <p>13 any operations other than those that are</p> <p>14 attendant to its liquidation?</p> <p>15 MR. McDONALD: Objection to form.</p> <p>16 A. No.</p> <p>17 Q. Okay. Do you know when Ascentra</p> <p>18 ceased operating as a commercial entity?</p> <p>19 MR. McDONALD: Objection to form.</p> <p>20 A. My understanding is early 2021.</p> <p>21 DIR Q. Do you know whether Ascentra</p> <p>22 Holdings Inc. -- withdrawn.</p> <p>23 Prior to that time, do you know</p> <p>24 whether Ascentra Holdings, Inc. conducted</p> <p>25 business in its own name or whether business</p>	<p style="text-align: right;">Page 24</p> <p>1 G. ROBINSON</p> <p>2 MR. McDONALD: Objection to form.</p> <p>3 A. For which entity? Sorry.</p> <p>4 Q. Fair. Let's take them one at a</p> <p>5 time.</p> <p>6 A. Okay.</p> <p>7 Q. I think you said HGC?</p> <p>8 MR. McDONALD: HEC, I believe.</p> <p>9 Q. Did you ever serve as an official</p> <p>10 liquidator for that entity?</p> <p>11 A. HEC International I was the</p> <p>12 voluntary liquidator, and now I'm the official</p> <p>13 liquidator.</p> <p>14 Q. And did that happen after you</p> <p>15 became the official liquidator of Ascentra</p> <p>16 Holdings, Inc. or before?</p> <p>17 A. After.</p> <p>18 Q. The same question with respect to</p> <p>19 Interush (Singapore). Before --</p> <p>20 Withdrawn. One question at a time.</p> <p>21 Did you become -- did you ever</p> <p>22 become an official liquidator of Interush</p> <p>23 (Singapore)?</p> <p>24 A. No.</p> <p>25 Q. Did you serve as the voluntary</p>

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<p style="text-align: right;">Page 25</p> <p>1 G. ROBINSON</p> <p>2 liquidator of that entity?</p> <p>3 A. Yes.</p> <p>4 Q. And were you appointed voluntary</p> <p>5 liquidator of that entity before or after you</p> <p>6 became the official liquidator of Ascentra</p> <p>7 Holdings, Inc.?</p> <p>8 A. After.</p> <p>9 Q. And then I think the last one was</p> <p>10 the Taiwan entity, is that right?</p> <p>11 A. Correct.</p> <p>12 Q. Were you ever appointed the</p> <p>13 official liquidator of that entity?</p> <p>14 A. I'm not trying to be difficult on</p> <p>15 the question. The Taiwanese liquidation</p> <p>16 process is a very unusual and complicated one.</p> <p>17 I would say it was -- it would be considered</p> <p>18 as like an official liquidation, is how I</p> <p>19 would look at it. Yes.</p> <p>20 Q. I appreciate that. I am going to</p> <p>21 confess to having no familiarity with Taiwan</p> <p>22 insolvency proceedings.</p> <p>23 A. I am still struggling, yes.</p> <p>24 Q. Did that occur after you were</p> <p>25 appointed the official liquidator in the</p>	<p style="text-align: right;">Page 27</p> <p>1 G. ROBINSON</p> <p>2 just identified subject to a liquidation</p> <p>3 proceeding in the Cayman Islands?</p> <p>4 A. Yes.</p> <p>5 Q. Which one?</p> <p>6 A. HEC International.</p> <p>7 Q. And in your capacity as the</p> <p>8 official liquidator of that entity have you</p> <p>9 declared that entity to be solvent, insolvent</p> <p>10 or doubtful solvency?</p> <p>11 A. Solvent.</p> <p>12 Q. Do you recall when that entity was</p> <p>13 placed into liquidation under the court</p> <p>14 supervision of the Cayman Islands?</p> <p>15 A. 7th of December 2021.</p> <p>16 THE COURT REPORTER: Can you say</p> <p>17 the date again?</p> <p>18 THE WITNESS: 7th of December 2021.</p> <p>19 MR. MORRIS: Okay. I am going to</p> <p>20 mark as Robinson exhibit 1 the amended</p> <p>21 notice of deposition.</p> <p>22 (Robinson Exhibit 1, Amended Notice</p> <p>23 of Deposition of Ascentra Holdings, Inc.</p> <p>24 was marked for identification.)</p> <p>25 BY MR. MORRIS:</p>
<p style="text-align: right;">Page 26</p> <p>1 G. ROBINSON</p> <p>2 Ascentra Holdings, Inc. case?</p> <p>3 A. After.</p> <p>4 Q. Did the same people who appointed</p> <p>5 you as the voluntary liquidator of Ascentra</p> <p>6 Holdings, Inc. also appoint you as the</p> <p>7 voluntary liquidator of the three entities you</p> <p>8 just identified?</p> <p>9 MR. McDONALD: Objection to form.</p> <p>10 MR. MORRIS: Withdrawn.</p> <p>11 Q. Did the same people and entities</p> <p>12 that you identified earlier as having</p> <p>13 appointed you as the voluntary liquidator of</p> <p>14 Ascentra Holdings, Inc. also appoint you as</p> <p>15 the voluntary liquidator of the three entities</p> <p>16 you just identified?</p> <p>17 A. No.</p> <p>18 Q. Who first appointed you the</p> <p>19 voluntary liquidator of International Limited?</p> <p>20 MR. McDONALD: Objection to form.</p> <p>21 Q. If you recall.</p> <p>22 A. So say the question again?</p> <p>23 Q. You know what? It's okay. I'm</p> <p>24 just going to move on.</p> <p>25 Are any of the three entities you</p>	<p style="text-align: right;">Page 28</p> <p>1 G. ROBINSON</p> <p>2 Q. Mr. Robinson, do you have exhibit 1</p> <p>3 in front of you?</p> <p>4 A. Yes.</p> <p>5 Q. Okay. Have you seen this before?</p> <p>6 A. I believe I have, yes.</p> <p>7 Q. Do you know what it is?</p> <p>8 A. I'm reading the title. It says</p> <p>9 Amended Notice of Deposition of Ascentra</p> <p>10 Holdings, Inc.</p> <p>11 Q. Okay. And if you can turn to --</p> <p>12 the pages aren't numbered, but I think it's</p> <p>13 the third page of the document, at the bottom</p> <p>14 you'll see a heading "Amended Topics" --</p> <p>15 A. Yes.</p> <p>16 Q. -- that go on through the rest of</p> <p>17 the document.</p> <p>18 A. Okay.</p> <p>19 Q. Have you seen those topics before?</p> <p>20 A. Yes.</p> <p>21 Q. And when did you see them for the</p> <p>22 first time, if you recall?</p> <p>23 A. I don't -- from memory I couldn't</p> <p>24 give you a specific date. I know SPGK filed</p> <p>25 its motion to terminate the recognition at the</p>

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<p style="text-align: right;">Page 29</p> <p>1 G. ROBINSON</p> <p>2 end of June 2023, so it's going to be sometime</p> <p>3 after that. And I couldn't give you a</p> <p>4 specific date. I'm sorry.</p> <p>5 Q. Subject to whatever objections or</p> <p>6 directions you received from counsel, are you</p> <p>7 otherwise prepared to answer questions on the</p> <p>8 topics set forth in exhibit 1?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Did you do anything to</p> <p>11 prepare for today's deposition?</p> <p>12 A. I did, yes.</p> <p>13 Q. What did you do?</p> <p>14 A. I met with my counsel yesterday in</p> <p>15 New York. And I also reviewed and kind of</p> <p>16 refreshed my memory on past documents. And</p> <p>17 specific documents would be the status reports</p> <p>18 filed in the Chapter 15 process; the two joint</p> <p>19 official liquidator reports that have been</p> <p>20 filed in the Cayman courts; my deposition --</p> <p>21 not deposition. My declaration that I filed</p> <p>22 regarding the application for Chapter 15 back</p> <p>23 in October 2021.</p> <p>24 I reviewed the, our objection to</p> <p>25 the motion to remove the restraint, which is</p>	<p style="text-align: right;">Page 31</p> <p>1 G. ROBINSON</p> <p>2 A. Not -- no, not specific documents.</p> <p>3 Q. Did you speak with anybody who is</p> <p>4 or purports to be a creditor in connection</p> <p>5 with your preparation for today's deposition?</p> <p>6 MR. McDONALD: Objection to form.</p> <p>7 A. No.</p> <p>8 Q. Did you speak with anybody who is</p> <p>9 or who claims to be a contributory to Ascentra</p> <p>10 Holdings, Inc. in connection with the</p> <p>11 preparation of your deposition?</p> <p>12 A. No.</p> <p>13 Q. Have you spoken with anybody, with</p> <p>14 any person or entity, who represents --</p> <p>15 withdrawn.</p> <p>16 Going back to June 1, when you were</p> <p>17 appointed the voluntary liquidator, and</p> <p>18 thinking about the people who appointed you or</p> <p>19 appointed you on behalf of corporate entities,</p> <p>20 have you spoken with any of those people in</p> <p>21 connection with today's deposition?</p> <p>22 A. No.</p> <p>23 Q. What do you do for a living, sir?</p> <p>24 A. I am an insolvency practitioner.</p> <p>25 Q. And do you work for a company?</p>
<p style="text-align: right;">Page 30</p> <p>1 G. ROBINSON</p> <p>2 dated September 23.</p> <p>3 And I also reviewed the amended</p> <p>4 written statement of the claim that Ascentra</p> <p>5 has filed against SPGK in the Cayman courts,</p> <p>6 which is dated 11th of October 2023.</p> <p>7 And I also looked at some old</p> <p>8 financial kind of Excel spreadsheet documents</p> <p>9 that we received from the company when we got</p> <p>10 appointed.</p> <p>11 Q. What Excel spreadsheet documents</p> <p>12 are you referring to?</p> <p>13 A. These are documents that we</p> <p>14 obtained that -- at the beginning of your</p> <p>15 appointment from Whinney, who was the account</p> <p>16 manager, that does set out a summary of</p> <p>17 creditors of Ascentra.</p> <p>18 Q. And did you rely on that Excel</p> <p>19 spreadsheet to identify Ascentra Holdings,</p> <p>20 Inc.'s creditors?</p> <p>21 A. It was one of the documents that</p> <p>22 we -- we used.</p> <p>23 Q. Do you recall any other documents</p> <p>24 that you reviewed in connection with your</p> <p>25 preparation for today's deposition?</p>	<p style="text-align: right;">Page 32</p> <p>1 G. ROBINSON</p> <p>2 A. Yes.</p> <p>3 Q. What company do you work for?</p> <p>4 A. That is Crowe, which is C-R-O-W-E,</p> <p>5 Cayman Limited.</p> <p>6 Q. And do you have a role or a title</p> <p>7 or a position at Crowe Cayman Limited?</p> <p>8 A. Director.</p> <p>9 Q. When did you become a director at</p> <p>10 Crowe?</p> <p>11 A. That was November 2019.</p> <p>12 Q. How long have you been affiliated</p> <p>13 with Crowe?</p> <p>14 A. Since that date.</p> <p>15 Q. What does it mean to be an</p> <p>16 insolvency practitioner?</p> <p>17 A. How long have you got?</p> <p>18 What does it mean to be an</p> <p>19 insolvency practitioner?</p> <p>20 Q. Mm-hmm.</p> <p>21 THE COURT REPORTER: "Yes"?</p> <p>22 BY MR. MORRIS:</p> <p>23 Q. Yes.</p> <p>24 A. I am appointed official liquidator</p> <p>25 or voluntary liquidator of Cayman entities. I</p>

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<p>1 G. ROBINSON</p> <p>2 also potentially assist companies with</p> <p>3 financial matters.</p> <p>4 Q. And how long have you been an</p> <p>5 insolvency practitioner? When did you first</p> <p>6 become one?</p> <p>7 A. Well, are you asking me when I</p> <p>8 became licensed or when I -- how long have I</p> <p>9 worked in insolvency matters?</p> <p>10 Q. We'll get to the license in a</p> <p>11 moment.</p> <p>12 A. Okay.</p> <p>13 Q. When did you first start working in</p> <p>14 the insolvency space?</p> <p>15 A. In 1993.</p> <p>16 Q. Can you describe for me generally</p> <p>17 your educational background?</p> <p>18 A. Yes. I'm obviously English, so</p> <p>19 I've got O levels, A levels, and a degree.</p> <p>20 And I also have accountancy qualifications,</p> <p>21 but I'm not a chartered accountant. And I</p> <p>22 also have an insolvency qualification, formal</p> <p>23 insolvency qualification, from the U.K.</p> <p>24 Q. So you're a chartered accountant?</p> <p>25 A. I am not a chartered accountant,</p>	<p>1 G. ROBINSON</p> <p>2 Who were you employed by before you</p> <p>3 joined Crowe in 2019? Can you give me -- let</p> <p>4 me back up.</p> <p>5 From 1993, give me an overview of</p> <p>6 your professional history and affiliations.</p> <p>7 A. I initially worked for a company</p> <p>8 called Casson Beckman & Partners in</p> <p>9 Manchester.</p> <p>10 I left them and went to PwC,</p> <p>11 PricewaterhouseCoopers.</p> <p>12 I then left PricewaterhouseCoopers</p> <p>13 and went to a company called RPG.</p> <p>14 After RPGK I went to PKF. After</p> <p>15 PKF I went to Kroll, which is K-R-O-L-L.</p> <p>16 I left Kroll in 2009 and went to</p> <p>17 the Cayman Islands, where in the Cayman</p> <p>18 Islands I worked for Robinson & Hunter until</p> <p>19 2012.</p> <p>20 I then went back to the U.K. in</p> <p>21 2012. I worked for myself and I also worked</p> <p>22 for a company called BB Financial Services.</p> <p>23 In 2014 I went back to the Cayman</p> <p>24 Islands. I then worked for Chris Johnson</p> <p>25 Associates up until I started work for Crowe</p>
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<p>1 G. ROBINSON</p> <p>2 no. I have accountancy qualifications, but I</p> <p>3 am not a chartered accountant.</p> <p>4 Q. Okay.</p> <p>5 THE COURT REPORTER: Did you say O</p> <p>6 level and A level?</p> <p>7 THE WITNESS: Yes. O level and</p> <p>8 then A level, yes.</p> <p>9 Q. And you have a license?</p> <p>10 A. I've got a -- yes, I have a</p> <p>11 U.K. license through the Insolvency</p> <p>12 Practitioners Association in the U.K.</p> <p>13 Q. When did you get that?</p> <p>14 A. I passed my qualification in 2000.</p> <p>15 I got my license in 2008.</p> <p>16 Q. What does one need to do to obtain</p> <p>17 a license?</p> <p>18 A. Short answer, certain amount of</p> <p>19 hours worked and some exams that you need to</p> <p>20 pass.</p> <p>21 Q. So is it fair to say that you</p> <p>22 worked in the insolvency space for about 15</p> <p>23 years before you obtained your license?</p> <p>24 A. Seven and eight is 15, yes.</p> <p>25 Q. Exactly.</p>	<p>1 G. ROBINSON</p> <p>2 Cayman Limited.</p> <p>3 Q. Okay. When did you receive your</p> <p>4 first appointment as an official liquidator in</p> <p>5 the Cayman Islands?</p> <p>6 A. That would be two thousand and --</p> <p>7 it's going to be late 2009 or early 2010.</p> <p>8 Q. Can you give me an estimate of how</p> <p>9 many times you've been appointed an official</p> <p>10 liquidator by the Cayman courts?</p> <p>11 A. Ten to 15.</p> <p>12 Q. And does that include the several</p> <p>13 that you have mentioned today?</p> <p>14 MR. McDONALD: Objection to form.</p> <p>15 A. Yes.</p> <p>16 Q. Have you ever been appointed a</p> <p>17 liquidator in any jurisdiction other than the</p> <p>18 United Kingdom or the Cayman Islands?</p> <p>19 A. Well, the companies we referred to</p> <p>20 today would be Singapore and Taiwan. No.</p> <p>21 Q. Prior to this case have you ever</p> <p>22 been involved in a Chapter 15 proceeding in</p> <p>23 the United States?</p> <p>24 A. No.</p> <p>25 Q. I want to see if we can just make</p>

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<p>1 G. ROBINSON</p> <p>2 sure that we have an understanding of kind of</p> <p>3 where we started earlier with respect to the</p> <p>4 corporate organization. And I'm going to</p> <p>5 just --</p> <p>6 MR. MORRIS: Let's mark as exhibit</p> <p>7 2 a portion of a document that was filed</p> <p>8 in the Chapter 7 -- Chapter 15</p> <p>9 proceeding at Docket No. 77. It's just</p> <p>10 an organizational chart that I am going</p> <p>11 to be focused on.</p> <p>12 THE WITNESS: Okay.</p> <p>13 (Robinson Exhibit 2, Organizational</p> <p>14 chart was marked for identification.)</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. I am going to represent to you that</p> <p>17 we actually copied this from a filing I think</p> <p>18 that originated in the Cayman Islands but that</p> <p>19 was filed in New York. I think it was part of</p> <p>20 the complaint that was filed in the Cayman</p> <p>21 Islands.</p> <p>22 Have you seen this organizational</p> <p>23 chart before?</p> <p>24 A. Yes.</p> <p>25 Q. And did you personally, in your</p>	<p>1 G. ROBINSON</p> <p>2 your understanding of what has changed?</p> <p>3 A. Basically, Mari Matthews holds her</p> <p>4 50 percent shares in a separate entity.</p> <p>5 Q. Okay. But she still now, instead</p> <p>6 of directly, indirectly owns 50 percent of</p> <p>7 International Media Holdings Inc. --</p> <p>8 International Media Holdings, LLC; is that</p> <p>9 your understanding?</p> <p>10 MR. McDONALD: Objection to form.</p> <p>11 A. She -- she doesn't own any -- she's</p> <p>12 not a shareholder of INTL Media anymore. But</p> <p>13 she's a shareholder in her own right of IR-P</p> <p>14 Holdings.</p> <p>15 Q. Okay.</p> <p>16 A. Through a separate entity to INTL.</p> <p>17 Q. Are there any other changes that</p> <p>18 you're aware of?</p> <p>19 A. No. That looks -- that looks okay.</p> <p>20 Q. Okay. So now, just to make sure I</p> <p>21 understood what you said earlier, if we look</p> <p>22 at the chart, you'll see Ascentra Holdings,</p> <p>23 Inc. is a Cayman Islands entity there; and</p> <p>24 above that there are three shareholders, three</p> <p>25 direct shareholders: IR-P Holdings Inc.,</p>
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<p>1 G. ROBINSON</p> <p>2 capacity as the official liquidator of</p> <p>3 Ascentra Holdings, Inc., authorize it to be</p> <p>4 filed on behalf of that entity?</p> <p>5 MR. McDONALD: Objection to form.</p> <p>6 A. Filed in which proceeding?</p> <p>7 Q. In the Cayman Islands.</p> <p>8 A. Yes.</p> <p>9 Q. And did you also authorize it to be</p> <p>10 filed in the Chapter 15 proceeding in</p> <p>11 New York?</p> <p>12 A. Yes.</p> <p>13 Q. To the best of your knowledge, is</p> <p>14 this corporate organizational chart accurate?</p> <p>15 A. There is one error on this chart.</p> <p>16 Q. Can you just point that out to me,</p> <p>17 please?</p> <p>18 A. The -- the shareholding in IR-P for</p> <p>19 INTL Media has changed since this document has</p> <p>20 been filed.</p> <p>21 Q. So I think you're referring to the</p> <p>22 box that's below Martin Matthews and Mari</p> <p>23 Matthews, is that right?</p> <p>24 A. Correct. Yes.</p> <p>25 Q. Okay. And can you describe for me</p>	<p>1 G. ROBINSON</p> <p>2 International Media Holdings, LLC, and then a</p> <p>3 box called "Management and Related Parties."</p> <p>4 Do I have that right?</p> <p>5 A. Yes.</p> <p>6 Q. And are those the people and the</p> <p>7 entities that appointed you as the voluntary</p> <p>8 liquidator back in June of 2021?</p> <p>9 A. Yeah. I was appointed through the</p> <p>10 shareholder resolutions. Yes.</p> <p>11 Q. Yes. And IR-P Holdings, Inc.</p> <p>12 (Cayman Islands), that's one that you</p> <p>13 mentioned earlier is in liquidation, is that</p> <p>14 right?</p> <p>15 A. Yes.</p> <p>16 Q. And that's a solvent -- that's</p> <p>17 subject to a solvency certificate, is that</p> <p>18 right?</p> <p>19 MR. McDONALD: Objection to form.</p> <p>20 A. Yes.</p> <p>21 Q. Interush I think you said has been</p> <p>22 dissolved, is that right?</p> <p>23 A. Interush -- sorry. Interush</p> <p>24 (Singapore), yes.</p> <p>25 Q. Yes. Sorry for the ambiguity. Let</p>

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<p style="text-align: right;">Page 41</p> <p>1 G. ROBINSON</p> <p>2 me ask the question again.</p> <p>3 Interush Singapore has been</p> <p>4 dissolved, is that right?</p> <p>5 A. Yes.</p> <p>6 Q. Okay. And HEC International</p> <p>7 Company Limited in Taiwan, that's also subject</p> <p>8 to liquidation, correct?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. HEC International Limited</p> <p>11 Cayman Islands, that's also subject to</p> <p>12 judicially supervised liquidation proceedings</p> <p>13 in the Cayman Islands, right?</p> <p>14 A. Yes.</p> <p>15 Q. And you serve as the official</p> <p>16 liquidator of that entity?</p> <p>17 A. Yes.</p> <p>18 Q. And that entity is also subject to</p> <p>19 a solvency certificate, correct?</p> <p>20 MR. McDONALD: Object to the form.</p> <p>21 A. Yes.</p> <p>22 Q. I think there's a statement in</p> <p>23 documents somewhere that HEC International,</p> <p>24 Limited Singapore branch has stopped doing</p> <p>25 business.</p>	<p style="text-align: right;">Page 43</p> <p>1 G. ROBINSON</p> <p>2 Ascentra over the years in one way, shape or</p> <p>3 form.</p> <p>4 Q. On the lower left-hand corner of</p> <p>5 this organizational chart there's four</p> <p>6 entities under the name Ted Sanders.</p> <p>7 Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. Do you have an understanding of who</p> <p>10 Mr. Sanders is?</p> <p>11 A. Yes.</p> <p>12 Q. What's your understanding of who</p> <p>13 Mr. Sanders is in relation to this</p> <p>14 organizational chart?</p> <p>15 A. Mr. Sanders was the former CFO of</p> <p>16 Ascentra.</p> <p>17 Q. Did he ever serve as a director, to</p> <p>18 the best of your knowledge?</p> <p>19 A. Of Ascentra?</p> <p>20 Q. Let me ask a better question.</p> <p>21 Do you know whether Mr. Sanders</p> <p>22 ever served as a director of Ascentra</p> <p>23 Holdings, Inc.?</p> <p>24 A. No.</p> <p>25 Q. Do you know if Mr. Sanders ever</p>
<p style="text-align: right;">Page 42</p> <p>1 G. ROBINSON</p> <p>2 Is my recollection about that</p> <p>3 correct?</p> <p>4 MR. McDONALD: Object to the form.</p> <p>5 A. That is correct.</p> <p>6 Q. Is that entity the subject of any</p> <p>7 liquidation proceeding or has it simply ceased</p> <p>8 doing business?</p> <p>9 A. It's not -- it's not in a</p> <p>10 liquidation process. And that branch has been</p> <p>11 closed.</p> <p>12 Q. So am I right that all of the</p> <p>13 entities that are directly beneath Ascentra</p> <p>14 Holdings, Inc. Cayman Islands served as</p> <p>15 operating companies of Ascentra Holdings,</p> <p>16 Inc. before it ceased to do business in</p> <p>17 early 2021?</p> <p>18 MR. McDONALD: Objection to form.</p> <p>19 A. They -- they -- I would -- they</p> <p>20 were part -- they were part of the group and I</p> <p>21 am sure at some time over the years --</p> <p>22 (Reporter requests clarification.)</p> <p>23 A. Those entities underneath Ascentra</p> <p>24 are part of the group, yes. And they've all</p> <p>25 been part of the operational business of</p>	<p style="text-align: right;">Page 44</p> <p>1 G. ROBINSON</p> <p>2 served as a director -- withdrawn.</p> <p>3 I am going to refer to the one,</p> <p>4 two, three, four, five, six -- seven entities</p> <p>5 below the Ascentra Holdings, Inc. box as</p> <p>6 "Ascentra's subsidiaries."</p> <p>7 Is that fair?</p> <p>8 A. Okay.</p> <p>9 Q. Do you know whether Mr. Sanders</p> <p>10 ever served as the director of any of</p> <p>11 Ascentra's subsidiaries?</p> <p>12 A. From my memory, no.</p> <p>13 Q. Do you know what period of time</p> <p>14 Mr. Sanders served as the CFO of Ascentra?</p> <p>15 A. I know it was -- I don't know the</p> <p>16 exact start date. I know he was involved from</p> <p>17 2018 up until his resignation in May 2021, and</p> <p>18 that he could possibly be involved in the</p> <p>19 group before April 2018. Sorry, I can't fully</p> <p>20 recall.</p> <p>21 Q. Do you know, did he serve as the</p> <p>22 CFO of Ascentra Holdings, Inc.?</p> <p>23 A. Of Ascentra.</p> <p>24 Q. And when you use the phrase</p> <p>25 "Ascentra" in the context of Mr. Sanders'</p>

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<p style="text-align: right;">Page 45</p> <p>1 G. ROBINSON</p> <p>2 role, what do you mean?</p> <p>3 MR. McDONALD: Object to the form.</p> <p>4 A. Can you just explain the question</p> <p>5 better for me, please?</p> <p>6 Q. Yes. I'll try again.</p> <p>7 You've got Ascentra Holdings,</p> <p>8 Inc. and then you've got the seven</p> <p>9 subsidiaries. Right?</p> <p>10 A. Mm-hmm. Yes.</p> <p>11 Q. Okay. Let's take them separately.</p> <p>12 Do you know whether Mr. Sanders</p> <p>13 ever served as the CFO of any of the seven</p> <p>14 subsidiaries?</p> <p>15 MR. McDONALD: Objection to form.</p> <p>16 A. In my view, Mr. Ted Sanders was the</p> <p>17 CFO of Ascentra group, and that included</p> <p>18 Ascentra Holdings, all the subsidiaries, and</p> <p>19 also SPGK.</p> <p>20 MR. McDONALD: John, you're going</p> <p>21 way off topic here. Can you please</p> <p>22 explain how any of this line of</p> <p>23 questioning relates to any of the topics</p> <p>24 that are set forth in the deposition</p> <p>25 notice?</p>	<p style="text-align: right;">Page 47</p> <p>1 G. ROBINSON</p> <p>2 had a direct or indirect ownership interest in</p> <p>3 any of the four entities under Mr. Sanders'</p> <p>4 name?</p> <p>5 MR. McDONALD: Objection to form.</p> <p>6 A. The two entities at the bottom</p> <p>7 there, AOS Property Ventures, and they</p> <p>8 obviously -- it's got formerly known as</p> <p>9 Interush, Inc., and then there's also Interush</p> <p>10 International, they may have been set over the</p> <p>11 side of the structure at one time, but I can't</p> <p>12 recall from memory.</p> <p>13 Q. Okay. Is it fair to say that this</p> <p>14 chart doesn't depict any direct or indirect</p> <p>15 relationship between any of the four entities</p> <p>16 under Mr. Sanders' names and any of the</p> <p>17 Ascentra Holdings entities, is that fair?</p> <p>18 MR. McDONALD: Objection to form.</p> <p>19 A. Just say that again for me, please?</p> <p>20 Q. Yeah. I am talking specifically</p> <p>21 now of ownership.</p> <p>22 A. Okay.</p> <p>23 Q. Okay. Do you have any reason to</p> <p>24 believe, as you sit here today, that Ascentra</p> <p>25 Holdings, Inc. or any of its subsidiaries ever</p>
<p style="text-align: right;">Page 46</p> <p>1 G. ROBINSON</p> <p>2 MR. MORRIS: I will tell you that</p> <p>3 it goes to, number 1, the likelihood of</p> <p>4 success on the merits and the</p> <p>5 relationship of these entities. And</p> <p>6 number 2, it's background.</p> <p>7 And if you want to direct him not</p> <p>8 to answer, you're free to do that at any</p> <p>9 time. I don't think this stuff is</p> <p>10 controversial, but you'll defend your</p> <p>11 witness as you wish.</p> <p>12 MR. McDONALD: It goes to number 1,</p> <p>13 the certificate of solvency?</p> <p>14 MR. MORRIS: No, the last four.</p> <p>15 The last four questions. Likelihood of</p> <p>16 success on the merits and facts relating</p> <p>17 thereto.</p> <p>18 MR. McDONALD: Again, we're giving</p> <p>19 you some latitude, but it's going to be</p> <p>20 very limited.</p> <p>21 MR. MORRIS: You'll do what you do,</p> <p>22 and I'll do what I do, and we'll do it</p> <p>23 respectfully.</p> <p>24 MR. McDONALD: Okay.</p> <p>25 Q. Do you know whether Ascentra ever</p>	<p style="text-align: right;">Page 48</p> <p>1 G. ROBINSON</p> <p>2 had a direct or indirect ownership interest in</p> <p>3 any of the four entities under Mr. Sanders'</p> <p>4 name?</p> <p>5 MR. McDONALD: Objection; form.</p> <p>6 A. Like I said, they might have had</p> <p>7 some ownership of these two at one time</p> <p>8 previously, but I don't believe they had any</p> <p>9 direct or indirect of Asian Offshore Services</p> <p>10 and SPGK International.</p> <p>11 Q. And what's the basis for that</p> <p>12 belief?</p> <p>13 A. Just -- just from I know the names</p> <p>14 Interush, and I believe that they might --</p> <p>15 just from memory -- they might have been part</p> <p>16 of a bigger group structure that Ascentra had</p> <p>17 prior to -- prior to 2016.</p> <p>18 Q. Are you aware of any facts</p> <p>19 concerning either how, when or why they would</p> <p>20 have ceased to have an ownership interest in</p> <p>21 those two entities at the bottom of the</p> <p>22 left-hand corner?</p> <p>23 MR. McDONALD: Objection to form.</p> <p>24 A. I do have a memory that they --</p> <p>25 that Ted could have -- Ted Sanders, sorry,</p>

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<p>1 G. ROBINSON</p> <p>2 could have purchased those companies from</p> <p>3 Ascentra.</p> <p>4 Q. Do you have any understanding or</p> <p>5 memory as to when that may have happened?</p> <p>6 A. No. I've got no memory.</p> <p>7 Q. In the upper left-hand portion of</p> <p>8 the document you've got Mr. Yoshida, is that</p> <p>9 right?</p> <p>10 A. Yes.</p> <p>11 Q. And then below him you've got two</p> <p>12 entities, Scuderia Bianco Limited --</p> <p>13 A. Yes.</p> <p>14 Q. -- and Lequios Holdings? Lequios?</p> <p>15 A. Lequios?</p> <p>16 Q. I'll go with your --</p> <p>17 A. I'm not good at any of those fancy</p> <p>18 words.</p> <p>19 Q. And then there's also a third</p> <p>20 entity called Growth Today Inc.</p> <p>21 Do I have that right?</p> <p>22 A. Yes. I see them.</p> <p>23 Q. Okay. Do you know if Ascentra</p> <p>24 Holdings, Inc. or any of its subsidiaries ever</p> <p>25 had a direct or indirect ownership interest in</p>	<p>1 G. ROBINSON</p> <p>2 proceeding in the Cayman Islands, and</p> <p>3 SPGK has answered that complaint, we</p> <p>4 have responded. And to the extent that</p> <p>5 there is any interrelationship between</p> <p>6 these entities, which we allege there</p> <p>7 is, will be dealt with in connection</p> <p>8 with those proceedings.</p> <p>9 MR. MORRIS: I'm not asking if</p> <p>10 there's a relationship between the two.</p> <p>11 I'm asking a very narrow question. Let</p> <p>12 me just ask -- let me just ask --</p> <p>13 MR. McDONALD: Can you just</p> <p>14 rephrase that question, please?</p> <p>15 MR. MORRIS: Yes, I appreciate</p> <p>16 that.</p> <p>17 BY MR. MORRIS:</p> <p>18 Q. To the best of your knowledge, sir,</p> <p>19 has Ascentra Holdings, Inc. or any of its</p> <p>20 subsidiaries ever had a direct or indirect</p> <p>21 ownership interest in Growth Today Inc.?</p> <p>22 A. What do you mean by "ownership</p> <p>23 interest"?</p> <p>24 DIR Q. That they -- that they were an</p> <p>25 owner of that entity. That they held some</p>
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<p>1 G. ROBINSON</p> <p>2 Scuderia Bianco Limited?</p> <p>3 MR. McDONALD: Objection to form.</p> <p>4 A. No.</p> <p>5 Q. Okay. Do you know if Ascentra</p> <p>6 Holdings, Inc. or any of its subsidiaries ever</p> <p>7 had a direct or indirect ownership interest in</p> <p>8 Lequios Holdings?</p> <p>9 A. No.</p> <p>10 Q. Do you know if Ascentra Holdings,</p> <p>11 Inc. or any of its subsidiaries ever had a</p> <p>12 direct or indirect ownership interest in</p> <p>13 Growth Today Inc.?</p> <p>14 MR. McDONALD: Objection to form.</p> <p>15 A. Just so I'm clear, what do you mean</p> <p>16 by "direct or indirect ownership"?</p> <p>17 Q. That they were -- that they held</p> <p>18 shares in, that they held equity, that they</p> <p>19 were a contributory, either in their own name</p> <p>20 or through another entity or person that they</p> <p>21 controlled.</p> <p>22 MR. McDONALD: I'm going to object</p> <p>23 and direct the witness not to answer.</p> <p>24 The ownership and interrelationship of</p> <p>25 these entities is subject to the</p>	<p>1 G. ROBINSON</p> <p>2 portion -- all or some portion of the shares.</p> <p>3 A. Shares.</p> <p>4 MR. McDONALD: Objection.</p> <p>5 I direct the witness not to answer.</p> <p>6 MR. MORRIS: What's the basis for</p> <p>7 the direction? Just so the record's</p> <p>8 clear.</p> <p>9 MR. McDONALD: That is a subject to</p> <p>10 the litigation in the Cayman Islands,</p> <p>11 and as we have stated to the Court, we</p> <p>12 are not litigating the Cayman proceeding</p> <p>13 here as part of this 30(b)(6).</p> <p>14 MR. MORRIS: You've made that</p> <p>15 argument. I just want to make my</p> <p>16 record.</p> <p>17 MR. McDONALD: I just want to be</p> <p>18 perfectly clear.</p> <p>19 MR. MORRIS: I appreciate that.</p> <p>20 MR. McDONALD: The</p> <p>21 interrelationship between Growth Today,</p> <p>22 its ultimate switch in ownership and the</p> <p>23 relationship between its prior principal</p> <p>24 and the principals of Ascentra are being</p> <p>25 litigated in the Cayman Islands.</p>

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<p style="text-align: right;">Page 53</p> <p>1 G. ROBINSON</p> <p>2 MR. MORRIS: So this is my</p> <p>3 opportunity -- because I want to make my</p> <p>4 record, too -- this is my opportunity to</p> <p>5 inquire as to the facts that relate to</p> <p>6 the likelihood of success on the merits</p> <p>7 in New York. And I appreciate your</p> <p>8 argument, and I know you made it to the</p> <p>9 New York court and here we are.</p> <p>10 So I believe that the answer to</p> <p>11 this question goes to the likelihood of</p> <p>12 success of the merits, which is why I am</p> <p>13 asking it, to be clear.</p> <p>14 And with that, if you are going to</p> <p>15 direct him not to answer, we'll just</p> <p>16 move on.</p> <p>17 MR. McDONALD: I am directing him</p> <p>18 not to answer.</p> <p>19 MR. MORRIS: Okay. I am just going</p> <p>20 to reserve my right, for all of the</p> <p>21 questions that you direct him not to</p> <p>22 answer, to either seek -- because I want</p> <p>23 to be clear -- to seek a preclusion</p> <p>24 order in New York from Ascentra offering</p> <p>25 any evidence that would have been</p>	<p style="text-align: right;">Page 55</p> <p>1 G. ROBINSON</p> <p>2 BY MR. MORRIS:</p> <p>3 DIR Q. Sir, do you know if Ascentra</p> <p>4 Holdings, Inc. or any of its subsidiaries ever</p> <p>5 had a contract with Growth Today Inc. or any</p> <p>6 of its subsidiaries?</p> <p>7 MR. McDONALD: Objection.</p> <p>8 I direct the witness not to answer.</p> <p>9 Q. Are you going to follow your</p> <p>10 counsel's advice?</p> <p>11 A. Yes.</p> <p>12 Q. Do you know if Ascentra Holdings,</p> <p>13 Inc. or any of its subsidiaries ever commenced</p> <p>14 legal proceeding to enforce any agreement that</p> <p>15 it contended it had with Growth Today or any</p> <p>16 of its subsidiaries?</p> <p>17 MR. McDONALD: Objection to form.</p> <p>18 A. Just repeat the question, please?</p> <p>19 Q. Yes, I appreciate that. I could do</p> <p>20 better.</p> <p>21 Prior to the commencement of the</p> <p>22 Ascentra Holdings, Inc. Cayman Islands</p> <p>23 liquidation proceeding, are you aware of any</p> <p>24 enforcement action that Ascentra Holdings,</p> <p>25 Inc. or any of its subsidiaries took against</p>
<p style="text-align: right;">Page 54</p> <p>1 G. ROBINSON</p> <p>2 responsive to these questions in the</p> <p>3 New York proceeding, or to compel</p> <p>4 further deposition.</p> <p>5 So those are the two things that</p> <p>6 I'm reserving my right for, and we'll</p> <p>7 just go forward.</p> <p>8 MR. McDONALD: And the judge made</p> <p>9 it very clear that if you're inquiring</p> <p>10 into the success of the Cayman</p> <p>11 proceeding, that is privileged and that</p> <p>12 goes beyond the scope of this</p> <p>13 deposition. He made that crystal clear</p> <p>14 at the last hearing, and we reserve our</p> <p>15 rights as well.</p> <p>16 MR. MORRIS: Okay. I don't think</p> <p>17 he said anything about privilege.</p> <p>18 MR. McDONALD: He did.</p> <p>19 MR. MORRIS: I don't think he said</p> <p>20 anything about privilege, but okay.</p> <p>21 MR. McDONALD: John, he did. He</p> <p>22 said if the question is basically do you</p> <p>23 think you're going to win Cayman, and</p> <p>24 all of these are going to that, he said</p> <p>25 that's privileged. He was very clear.</p>	<p style="text-align: right;">Page 56</p> <p>1 G. ROBINSON</p> <p>2 Growth Today Inc. or any of its subsidiaries</p> <p>3 with respect to any contract?</p> <p>4 A. No.</p> <p>5 Q. Okay. Thank you.</p> <p>6 Do you know if Ascentra Holdings,</p> <p>7 Inc., as distinguished from the subsidiaries,</p> <p>8 do you know if Ascentra Holdings, Inc. ever</p> <p>9 provided any goods or services to Growth Today</p> <p>10 Inc. or any of Growth Today Inc.'s</p> <p>11 subsidiaries?</p> <p>12 MR. McDONALD: Objection to form.</p> <p>13 A. Just say the question again,</p> <p>14 please?</p> <p>15 Q. Sure. Do you know whether Ascentra</p> <p>16 Holdings, Inc. -- withdrawn.</p> <p>17 Prior to the commencement of the</p> <p>18 Cayman Islands liquidation proceedings do you</p> <p>19 know whether Ascentra Holdings, Inc. ever</p> <p>20 provided goods and services to Growth Today</p> <p>21 Inc. or any of the three subsidiaries listed</p> <p>22 underneath it in this organizational chart?</p> <p>23 A. And you're asking me for</p> <p>24 specifically Ascentra Holdings, Inc., or --</p> <p>25 Q. Correct.</p>

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<p>1 G. ROBINSON</p> <p>2 A. -- or not the Ascentra group?</p> <p>3 Q. Exactly.</p> <p>4 MR. McDONALD: Objection to form.</p> <p>5 A. Then the answer is no.</p> <p>6 DIR Q. Okay. Do you know if Growth Today</p> <p>7 or any of the entities beneath Growth Today</p> <p>8 ever paid money to a third party for the</p> <p>9 benefit of Ascentra Holdings, Inc. or any of</p> <p>10 its subsidiaries?</p> <p>11 MR. McDONALD: Objection.</p> <p>12 I direct the witness not to answer.</p> <p>13 MR. MORRIS: Can I ask him if he</p> <p>14 knows the answer to the question? I'm</p> <p>15 going to ask him the question, and then</p> <p>16 you can decide.</p> <p>17 DIR Q. Without divulging the answer to the</p> <p>18 question, just yes or no, do you know whether</p> <p>19 Growth Today Inc. or any of the three entities</p> <p>20 beneath it ever paid any third party for the</p> <p>21 benefit of Ascentra Holdings, Inc. or any of</p> <p>22 its subsidiaries? Just yes or no.</p> <p>23 MR. McDONALD: I'm still going to</p> <p>24 direct him not to answer.</p> <p>25 MR. MORRIS: You're not even going</p>	<p>1 G. ROBINSON</p> <p>2 (Recess taken.)</p> <p>3 THE VIDEOGRAPHER: This begins</p> <p>4 unit 3. We're on the record at 10:56.</p> <p>5 MR. MORRIS: I am going to mark as</p> <p>6 the next exhibit, which I think is</p> <p>7 number 3, Robinson number 3, a document</p> <p>8 that was previously marked as Hernandez</p> <p>9 exhibit 5. And it's entitled Joint</p> <p>10 Official Liquidators' Certificate.</p> <p>11 (Robinson Exhibit 3, CWR Form</p> <p>12 Number 13, Joint Official Liquidators'</p> <p>13 Certificate was marked for</p> <p>14 identification.)</p> <p>15 BY MR. MORRIS:</p> <p>16 Q. All right, sir. Do you have</p> <p>17 Robinson exhibit 3 in front of you?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. Do you know what that is?</p> <p>20 A. Yes.</p> <p>21 Q. And what is this document?</p> <p>22 A. This is the Joint Official</p> <p>23 Liquidators' Certificate of Determination of</p> <p>24 Solvency for Ascentra Holdings, Inc.</p> <p>25 Q. And in this document it says that</p>
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<p>1 G. ROBINSON</p> <p>2 to let me know if he knows the answer to</p> <p>3 the question?</p> <p>4 MR. McDONALD: Yes.</p> <p>5 MR. MORRIS: Okay.</p> <p>6 Q. Are you going to follow counsel's</p> <p>7 advice?</p> <p>8 A. Yes.</p> <p>9 MR. McDONALD: John, when you come</p> <p>10 to an appropriate point, can we take a</p> <p>11 break?</p> <p>12 MR. MORRIS: Yes. Now would be</p> <p>13 great.</p> <p>14 MR. McDONALD: Is that okay?</p> <p>15 MR. MORRIS: Yes. So we agree he's</p> <p>16 under oath.</p> <p>17 MR. McDONALD: Yes.</p> <p>18 MR. MORRIS: No communication with</p> <p>19 the witness while the deposition</p> <p>20 continues. But I'm happy to take a</p> <p>21 break.</p> <p>22 MR. McDONALD: Thank you.</p> <p>23 MR. MORRIS: You bet.</p> <p>24 THE VIDEOGRAPHER: This ends</p> <p>25 unit 2. We're off the record at 10:44.</p>	<p>1 G. ROBINSON</p> <p>2 the joint official liquidators, quote, "hereby</p> <p>3 certify that they have determined that the</p> <p>4 above-named company should be treated as</p> <p>5 solvent."</p> <p>6 Did I read that correctly?</p> <p>7 A. Yes.</p> <p>8 Q. How did you make that</p> <p>9 determination?</p> <p>10 A. So when we -- when we are appointed</p> <p>11 official liquidators, one of our duties is to</p> <p>12 just analyze the books and records that we</p> <p>13 have in our possession. I spoke to</p> <p>14 stakeholders, management, former officers of</p> <p>15 the company. Reviewed financial information</p> <p>16 in our possession. And we make a</p> <p>17 determination on whether the -- the company is</p> <p>18 solvent. And that's also discussed in</p> <p>19 consultation with our attorneys.</p> <p>20 And then we make a decision that we</p> <p>21 should -- whether we should -- what</p> <p>22 determination we should file.</p> <p>23 And after that initial review, in</p> <p>24 consultation, the decision was taken to file a</p> <p>25 certificate of solvency.</p>

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<p>1 G. ROBINSON</p> <p>2 Q. You used the phrase "stakeholders."</p> <p>3 Do you recall which stakeholders</p> <p>4 you communicated with with respect to the</p> <p>5 decision to identify Ascentra Holdings,</p> <p>6 Inc. as solvent?</p> <p>7 MR. McDONALD: Objection to form.</p> <p>8 I think there's confusion. I think</p> <p>9 you're saying -- did you "stakeholders"</p> <p>10 or "stockholders"?</p> <p>11 MR. MORRIS: I heard him say</p> <p>12 "stakeholders."</p> <p>13 MR. McDONALD: Okay.</p> <p>14 MR. MORRIS: Let me try again.</p> <p>15 MR. McDONALD: It just came across</p> <p>16 as stockholders or stakeholders. I</p> <p>17 wasn't sure which you were going with.</p> <p>18 MR. MORRIS: I'll try again.</p> <p>19 Q. Did you speak with any stakeholders</p> <p>20 in connection with your determination to</p> <p>21 declare Ascentra Holdings, Inc. to be solvent?</p> <p>22 MR. McDONALD: Objection to the</p> <p>23 form.</p> <p>24 A. When I say the word "stakeholder,"</p> <p>25 I am talking about numerous parties involved</p>	<p>1 G. ROBINSON</p> <p>2 A. No.</p> <p>3 Q. You mentioned "books and records."</p> <p>4 Do you recall, and I appreciate</p> <p>5 it's been some time, do you recall what books</p> <p>6 and records you reviewed and relied upon to</p> <p>7 reach your determination that Ascentra</p> <p>8 Holdings, Inc. is solvent?</p> <p>9 A. It would have been through</p> <p>10 communication and discussions with the</p> <p>11 stakeholders and with the financial</p> <p>12 information that we were provided to --</p> <p>13 provided with by Whinney.</p> <p>14 Q. Among that information, was there a</p> <p>15 general ledger, if you recall?</p> <p>16 A. We were aware of the -- the assets</p> <p>17 of the group and what pertained to the assets</p> <p>18 of the Ascentra group.</p> <p>19 Q. Did the determination of solvency</p> <p>20 take into account not just assets but</p> <p>21 liabilities?</p> <p>22 A. Yes.</p> <p>23 Q. Is there a particular test that you</p> <p>24 utilized to determine that Ascentra Holdings,</p> <p>25 Inc. is solvent?</p>
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<p>1 G. ROBINSON</p> <p>2 in the affairs of the company.</p> <p>3 Q. Okay. Can you identify those</p> <p>4 parties who were involved in the affairs of</p> <p>5 the company?</p> <p>6 A. That I spoke to?</p> <p>7 Q. Yes.</p> <p>8 A. On the process, okay. Yes.</p> <p>9 That would be employees of the</p> <p>10 group. It would have been Ted Sanders. It</p> <p>11 was also, I believe, from memory, that I also</p> <p>12 had communications with Luke Ryu. Marty</p> <p>13 Matthews. And that would be it.</p> <p>14 Did I say staff?</p> <p>15 Q. You said employees.</p> <p>16 A. Employees, okay. Yes.</p> <p>17 Q. Do you remember the names of any of</p> <p>18 the employees?</p> <p>19 A. Communication on that would have</p> <p>20 been with Whinney.</p> <p>21 Q. Okay. Out of the people that you</p> <p>22 just identified, did any of them disagree with</p> <p>23 the determination that you ultimately made</p> <p>24 that Ascentra Holdings, Inc. is solvent?</p> <p>25 MR. McDONALD: Objection to form.</p>	<p>1 G. ROBINSON</p> <p>2 MR. McDONALD: Objection to form.</p> <p>3 A. There is no -- there is no specific</p> <p>4 test that official liquidators undertake when</p> <p>5 he's determining solvency. It's the joint</p> <p>6 official liquidators' opinion.</p> <p>7 Q. Do you know whether Ascentra</p> <p>8 Holdings, Inc. maintained financial statements</p> <p>9 for itself and its subsidiaries?</p> <p>10 A. Yes. There are -- there are. Yep.</p> <p>11 Q. And would those financial</p> <p>12 statements include balance sheets?</p> <p>13 MR. McDONALD: Object to the form.</p> <p>14 A. Yes.</p> <p>15 Q. What other financial statements are</p> <p>16 you -- do you have in mind when you think back</p> <p>17 to what you reviewed in connection with this</p> <p>18 analysis?</p> <p>19 A. Yeah, okay.</p> <p>20 MR. McDONALD: Let him finish the</p> <p>21 question.</p> <p>22 A. Say the question again? Sorry.</p> <p>23 Q. Okay. Did you review financial</p> <p>24 statements in connection with your analysis of</p> <p>25 solvency?</p>

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<p style="text-align: right;">Page 65</p> <p>1 G. ROBINSON</p> <p>2 A. So when we got -- when we appointed</p> <p>3 and we were reviewing the books and records in</p> <p>4 our possession -- so when you say "financial</p> <p>5 statements," there were no audited statements</p> <p>6 for the recent period leading up to the</p> <p>7 liquidation. There were management accounts</p> <p>8 and financial summaries and bank statements</p> <p>9 and Excel spreadsheets showing balances at</p> <p>10 bank and assets and stuff that is very basic.</p> <p>11 It wasn't complicated. It was easy to look</p> <p>12 at, easy to assess. And we deemed, after</p> <p>13 reviewing those kind of financials, that the</p> <p>14 company -- that Ascentra should be deemed</p> <p>15 solvent.</p> <p>16 Q. Thank you very much.</p> <p>17 Do you recall whether Ascentra</p> <p>18 Holdings, Inc. reported their financial</p> <p>19 statements on a consolidated basis with their</p> <p>20 subsidiaries?</p> <p>21 MR. McDONALD: Objection to form.</p> <p>22 A. We have seen draft financial</p> <p>23 statements and previous signed financial</p> <p>24 statements where the accounts are</p> <p>25 consolidated, yes.</p>	<p style="text-align: right;">Page 67</p> <p>1 G. ROBINSON</p> <p>2 Q. Okay. In your review of the</p> <p>3 records did you see anything that would have</p> <p>4 reflected any disagreement between Ascentra</p> <p>5 Holdings, Inc. and the last outside auditor</p> <p>6 that it did have?</p> <p>7 MR. McDONALD: Objection to form.</p> <p>8 A. I can't from memory remember if</p> <p>9 there was any statements in the last signed</p> <p>10 audited statements from the auditor</p> <p>11 questioning anything, how the accounts were --</p> <p>12 were shown.</p> <p>13 Q. Okay. And I think you testified</p> <p>14 that your recollection is the last audited</p> <p>15 financial statements were for either 2018 or</p> <p>16 2019.</p> <p>17 Do I have that right?</p> <p>18 MR. McDONALD: Objection.</p> <p>19 Q. Or was it '17 and '18?</p> <p>20 A. You're talking about --</p> <p>21 Q. Audited.</p> <p>22 A. -- today?</p> <p>23 Q. Mm-hmm.</p> <p>24 A. Yeah, probably seven -- maybe 2017.</p> <p>25 Q. Are you aware of any reason why</p>
<p style="text-align: right;">Page 66</p> <p>1 G. ROBINSON</p> <p>2 Q. Do you know the last period for</p> <p>3 which Ascentra Holdings, Inc. received audited</p> <p>4 financial statements?</p> <p>5 A. I'm not a hundred percent, but I</p> <p>6 think it could be either 2017 maybe or 2018.</p> <p>7 But that's from memory. Sorry.</p> <p>8 Q. Do you recall if Ascentra Holdings,</p> <p>9 Inc. prepared its financial statements on a</p> <p>10 calendar-year basis, or was there some other</p> <p>11 time period that they utilized? Or</p> <p>12 year-basis, fiscal year?</p> <p>13 A. Again, from memory I think the</p> <p>14 financial year-end was December, but I</p> <p>15 don't -- I don't fully recall. I'm sorry.</p> <p>16 Q. Do you remember the name of</p> <p>17 Ascentra's outside auditors for the period of</p> <p>18 time that audited financial statements were</p> <p>19 completed?</p> <p>20 A. I don't recall the name, no.</p> <p>21 Q. In your capacity as Ascentra's</p> <p>22 joint official liquidator did you ever speak</p> <p>23 with Ascentra's outside auditors?</p> <p>24 A. There were no outside auditors</p> <p>25 appointed at the time of my appointment.</p>	<p style="text-align: right;">Page 68</p> <p>1 G. ROBINSON</p> <p>2 audited financial statements were not</p> <p>3 completed for any period after the last one?</p> <p>4 A. I would say from the financials it</p> <p>5 would be how -- how the account should be</p> <p>6 recorded, and all the parties involved, how</p> <p>7 they wanted the account to be shown.</p> <p>8 Q. Okay. I think you said you are an</p> <p>9 accountant, is that right?</p> <p>10 A. I have accountant qualifications.</p> <p>11 Q. Do you know whether Ascentra's</p> <p>12 books and records were maintained under GAAP</p> <p>13 accounting or, I guess, IFRS?</p> <p>14 A. I do not know.</p> <p>15 Q. You don't know.</p> <p>16 MR. McDONALD: John, just to be</p> <p>17 clear, when you say "Ascentra" you mean</p> <p>18 Ascentra Holdings or Ascentra group?</p> <p>19 MR. MORRIS: I appreciate that.</p> <p>20 Ascentra Holdings, Inc. Yes.</p> <p>21 MR. McDONALD: Okay.</p> <p>22 Q. And the same question then for any</p> <p>23 of the subsidiaries.</p> <p>24 Do you know if --</p> <p>25 MR. McDONALD: Ascentra group. You</p>

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<p style="text-align: right;">Page 69</p> <p>1 G. ROBINSON</p> <p>2 distinguished between Ascentra and</p> <p>3 Ascentra Holdings. So just to be</p> <p>4 precise.</p> <p>5 MR. MORRIS: Okay.</p> <p>6 Q. You have never withdrawn the</p> <p>7 certificate that's been marked as Robinson</p> <p>8 exhibit 3, correct?</p> <p>9 A. Correct.</p> <p>10 Q. Okay. As an experienced and</p> <p>11 licensed insolvency practitioner, can you</p> <p>12 share with me your understanding of the</p> <p>13 circumstances that would require you to either</p> <p>14 withdraw or amend this certificate?</p> <p>15 MR. McDONALD: To the extent you</p> <p>16 can answer that without divulging</p> <p>17 attorney-client privilege, please</p> <p>18 answer.</p> <p>19 A. Just say the question again?</p> <p>20 Sorry.</p> <p>21 Q. Just as a Cayman Islands insolvency</p> <p>22 practitioner can you tell me your</p> <p>23 understanding of the circumstances that would</p> <p>24 require you to withdraw, amend or modify the</p> <p>25 certificate?</p>	<p style="text-align: right;">Page 71</p> <p>1 G. ROBINSON</p> <p>2 identification.)</p> <p>3 Q. Mr. Robinson, do you see this is a</p> <p>4 declaration that was submitted to the Court in</p> <p>5 New York back in October 2021?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. And do you recall this</p> <p>8 particular declaration?</p> <p>9 A. Yes.</p> <p>10 Q. And do you recall reviewing it</p> <p>11 before it was filed with the court?</p> <p>12 A. Yes.</p> <p>13 Q. And did you have an opportunity to</p> <p>14 make comments and changes to the declaration?</p> <p>15 A. I did, yes.</p> <p>16 Q. Okay. Let's go to paragraph 18.</p> <p>17 And if you could just read that to yourself</p> <p>18 for the moment.</p> <p>19 (The witness complied.)</p> <p>20 A. Okay.</p> <p>21 Q. Was it your understanding at the</p> <p>22 time you signed this that that statement was</p> <p>23 true and accurate?</p> <p>24 A. Yes.</p> <p>25 Q. Do you believe it's true and</p>
<p style="text-align: right;">Page 70</p> <p>1 G. ROBINSON</p> <p>2 A. This is a general question, not</p> <p>3 related to Ascentra?</p> <p>4 Q. Correct.</p> <p>5 A. That would be, as an officer of the</p> <p>6 court and you've got a duty to monitor the</p> <p>7 solvency during a lifecycle of the</p> <p>8 liquidation, you would look and check</p> <p>9 constantly on asset values and liability</p> <p>10 values. And if those change.</p> <p>11 Q. So is it fair to say that they</p> <p>12 haven't changed in a manner in which it caused</p> <p>13 you to withdraw the solvency certificate?</p> <p>14 MR. McDONALD: Objection to form.</p> <p>15 A. Since I filed this in September</p> <p>16 2021 there's nothing that's come into my</p> <p>17 possession or been filed by the parties that</p> <p>18 has made me determine my solvency</p> <p>19 determination should change.</p> <p>20 Q. Okay, thank you.</p> <p>21 MR. MORRIS: We'll mark as the next</p> <p>22 exhibit, it will be Robinson number 4.</p> <p>23 It's one of your earlier declarations.</p> <p>24 (Robinson Exhibit 4, Declaration of</p> <p>25 Graham Robinson was marked for</p>	<p style="text-align: right;">Page 72</p> <p>1 G. ROBINSON</p> <p>2 accurate today?</p> <p>3 A. Yes.</p> <p>4 Q. Just one little wrinkle here.</p> <p>5 It's a statement that's made as of</p> <p>6 December 31, 2021, but the document is</p> <p>7 prepared in October 2021.</p> <p>8 Is this kind of a forward-looking</p> <p>9 statement?</p> <p>10 A. Yeah, I would say that we probably</p> <p>11 forecast what expenses were likely to incur up</p> <p>12 to the end of the year, yes.</p> <p>13 Q. Was it also true as of the date you</p> <p>14 filed the application in the Cayman Islands</p> <p>15 court for supervision of the liquidation; was</p> <p>16 this statement true at that time as well?</p> <p>17 MR. McDONALD: Objection to form.</p> <p>18 MR. MORRIS: Withdrawn.</p> <p>19 Q. The liquidation was commenced</p> <p>20 officially in --</p> <p>21 A. 17th of September.</p> <p>22 Q. September 17th.</p> <p>23 If we changed "December 31, 2021"</p> <p>24 to September 17, 2021, would the statement in</p> <p>25 paragraph 18 be accurate?</p>

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<p style="text-align: right;">Page 73</p> <p>1 G. ROBINSON</p> <p>2 A. Accurate in what way?</p> <p>3 Q. Would there be any modification to</p> <p>4 this statement if you just took it and turned</p> <p>5 it back, you know, ten weeks, to the date of</p> <p>6 commencement?</p> <p>7 A. So -- okay. So you're saying</p> <p>8 Ascentra's main liabilities as of 17th of</p> <p>9 September, 2021, basically?</p> <p>10 Q. Correct. Mm-hmm.</p> <p>11 A. Yes.</p> <p>12 Q. Okay. And when you use the term</p> <p>13 "main liabilities" there, are you aware of</p> <p>14 any liabilities that Ascentra had as of</p> <p>15 September 17, 2021 other than the costs that</p> <p>16 were going to be incurred by the liquidators</p> <p>17 and certain ordinary course operating</p> <p>18 expenses? Were there any other liabilities</p> <p>19 that you can recall?</p> <p>20 A. At the time, are you talking about</p> <p>21 17th of September, or are you talking about</p> <p>22 the day of this declaration?</p> <p>23 Q. September 17.</p> <p>24 A. Okay. So just state the question</p> <p>25 again, please?</p>	<p style="text-align: right;">Page 75</p> <p>1 G. ROBINSON</p> <p>2 A. That's a difficult question to</p> <p>3 answer because what I think you're asking me</p> <p>4 is did other creditors come about after the</p> <p>5 31st of December 2021 that weren't potentially</p> <p>6 contingent at that time or I was totally</p> <p>7 unaware of at that time.</p> <p>8 I can't recall. Because as part of</p> <p>9 the liquidation process, I've been dealing</p> <p>10 with creditor -- previous creditors and</p> <p>11 potential creditors through the whole</p> <p>12 liquidation process.</p> <p>13 Q. Go back to exhibit 1, which was the</p> <p>14 30(b)(6) notice. And if you can turn I think</p> <p>15 to the third page, at the bottom it says</p> <p>16 "Amended Topics."</p> <p>17 A. Okay.</p> <p>18 Q. And 2(a) asks about the number of</p> <p>19 creditors existing as of the date of</p> <p>20 commencement.</p> <p>21 Let me just modify that a tiny bit,</p> <p>22 in light of what you just said.</p> <p>23 Do you recall whether Ascentra had</p> <p>24 any non -- any creditors who held</p> <p>25 non-contingent claims, right, who you agree</p>
<p style="text-align: right;">Page 74</p> <p>1 G. ROBINSON</p> <p>2 Q. Sure. When you use the phrase</p> <p>3 "main liabilities" -- actually, let's do this</p> <p>4 in pieces.</p> <p>5 Are you aware of any other -- any</p> <p>6 liabilities as of December 31, 2021 other than</p> <p>7 the costs incurred by the liquidators and</p> <p>8 certain ordinary course operating expenses for</p> <p>9 storage and maintenance of Ascentra's</p> <p>10 information?</p> <p>11 A. I think the key sentence there</p> <p>12 would be "Ascentra may have other contingent</p> <p>13 liabilities that my team and are I</p> <p>14 investigating."</p> <p>15 Q. Okay. I appreciate that and I want</p> <p>16 to separate, you know, stuff that may be</p> <p>17 subject to investigation from what you knew,</p> <p>18 what was -- you know, what was on the books</p> <p>19 and records, what you knew at the time. Okay?</p> <p>20 So with that distinction, were</p> <p>21 there any liabilities that you're aware of</p> <p>22 that existed as of the end of 2021 other than</p> <p>23 the ones that are described here?</p> <p>24 Any non-contingent liabilities.</p> <p>25 How about that?</p>	<p style="text-align: right;">Page 76</p> <p>1 G. ROBINSON</p> <p>2 they had a claim, as of the date of</p> <p>3 commencement? Did they have any such</p> <p>4 creditors?</p> <p>5 MR. McDONALD: Objection to form.</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Do you recall how many</p> <p>8 creditors they had that fell into that very</p> <p>9 specific category of non-contingent claims?</p> <p>10 MR. McDONALD: Objection to form.</p> <p>11 A. I struggle for the exact number,</p> <p>12 but you are looking, I would say, at ten, 12.</p> <p>13 Ten to 12, maybe.</p> <p>14 Q. Okay. So to the best of your</p> <p>15 recollection, on the date of commencement</p> <p>16 Ascentra Holdings, Inc. had approximately ten</p> <p>17 to 12 creditors who held undisputed claims, is</p> <p>18 that fair?</p> <p>19 A. Exactly the day of appointment you</p> <p>20 don't know if they're going to be -- if they</p> <p>21 may be still disputed until you've reviewed.</p> <p>22 So ...</p> <p>23 Q. So when you referred to the ten or</p> <p>24 12, were those ten or 12 disputed claims,</p> <p>25 undisputed claims or a mix?</p>

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<p>1 G. ROBINSON</p> <p>2 A. We were provided with that list</p> <p>3 when we got appointed, and then we reviewed</p> <p>4 and analyzed it, and if they were not</p> <p>5 disputed, they would have been paid.</p> <p>6 Q. Okay. And as a total group, how</p> <p>7 many disputed, undisputed or contingent claims</p> <p>8 existed, to the best of your knowledge, on the</p> <p>9 date of commencement?</p> <p>10 MR. McDONALD: Objection to form.</p> <p>11 A. Again, you don't know which ones</p> <p>12 are disputed when you get appointed.</p> <p>13 Q. And that's why I am trying to say I</p> <p>14 don't really care whether it's disputed or</p> <p>15 undisputed or contingent.</p> <p>16 How many claims existed, to the</p> <p>17 best of your knowledge, on the commencement</p> <p>18 date, irrespective of whether they were</p> <p>19 contingent or disputed claims?</p> <p>20 A. So on top of the ten to 12 is --</p> <p>21 Q. Mm-hmm.</p> <p>22 A. I would say maybe another ten.</p> <p>23 Q. Okay. So somewhere between 20 and</p> <p>24 22 claims in total, which included undisputed</p> <p>25 claims, disputed claims and contingent claims.</p>	<p>1 G. ROBINSON</p> <p>2 MR. MORRIS: Withdrawn.</p> <p>3 Q. What was the biggest claim?</p> <p>4 MR. McDONALD: Objection to form.</p> <p>5 A. If you exclude the monies that are</p> <p>6 due to the members on the commissions, the</p> <p>7 biggest creditor claim was -- for a service</p> <p>8 provider was approximately 3.9 million.</p> <p>9 Q. Do you know whether under the</p> <p>10 Cayman Companies Act a solvent entity</p> <p>11 liquidating under court supervision is</p> <p>12 required to pay creditors within 12 months?</p> <p>13 MR. McDONALD: Objection to form.</p> <p>14 A. Sorry, say again.</p> <p>15 Q. Do you know whether under the</p> <p>16 Cayman Companies Act a solvent entity</p> <p>17 operating under court supervision is required</p> <p>18 to pay its debts within 12 months?</p> <p>19 MR. McDONALD: Objection to form.</p> <p>20 Q. You can answer.</p> <p>21 A. Under court supervision, no.</p> <p>22 Q. Is that a rule that applies outside</p> <p>23 of court?</p> <p>24 MR. McDONALD: Objection to form.</p> <p>25 A. For a voluntary liquidation --</p>
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<p>1 G. ROBINSON</p> <p>2 Is that fair?</p> <p>3 MR. McDONALD: Objection to form.</p> <p>4 A. I would say okay, yes.</p> <p>5 Q. Do you know the aggregate value of</p> <p>6 those claims?</p> <p>7 MR. McDONALD: Objection to form.</p> <p>8 A. Which -- do you want to break it</p> <p>9 down?</p> <p>10 Q. Sure.</p> <p>11 A. Are you asking for the full amount?</p> <p>12 Q. Let's start with the full amount.</p> <p>13 MR. MORRIS: Withdrawn. Let me ask</p> <p>14 a different question.</p> <p>15 Q. As of the commencement date, what</p> <p>16 did Ascentra's books and records show as their</p> <p>17 obligations owing to creditors?</p> <p>18 MR. McDONALD: Objection to form.</p> <p>19 A. I think from memory it was over</p> <p>20 20 million U.S. dollars. That is for</p> <p>21 creditors and other potential creditors.</p> <p>22 Q. Right. And was there any creditor,</p> <p>23 to the best of your recollection, who held a</p> <p>24 claim, whether it was disputed or not, that</p> <p>25 was more than a million dollars?</p>	<p>1 G. ROBINSON</p> <p>2 well, a director, if he signs a declaration of</p> <p>3 solvency, he's swearing in the declaration</p> <p>4 that all the debts of the company will be paid</p> <p>5 off in full within 12 months.</p> <p>6 Q. That's what I am asking.</p> <p>7 Did that happen in this case?</p> <p>8 A. No.</p> <p>9 Q. So which debts were not paid in</p> <p>10 full within 12 months?</p> <p>11 MR. McDONALD: Objection to form.</p> <p>12 A. Within 12 -- in the first 12</p> <p>13 months?</p> <p>14 Q. Mm-hmm.</p> <p>15 A. I don't know from memory. As I</p> <p>16 said, there's no requirement for debts to be</p> <p>17 paid, all creditors to be paid in 12 months.</p> <p>18 Like I said before, and I'll repeat</p> <p>19 again, we've been dealing with creditors for</p> <p>20 the full -- through the whole liquidation</p> <p>21 process, and some have been paid, some have</p> <p>22 been agreed and paid, and we have probably</p> <p>23 some creditors that we have not verified and</p> <p>24 paid.</p> <p>25 Q. Has Ascentra paid all creditors in</p>

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<p style="text-align: right;">Page 81</p> <p>1 G. ROBINSON</p> <p>2 full who hold undisputed claims?</p> <p>3 MR. McDONALD: Objection to form.</p> <p>4 A. Yes.</p> <p>5 Q. And is the only reason the</p> <p>6 remaining creditors haven't been paid in full</p> <p>7 is because there's a dispute as to either the</p> <p>8 validity or the amount of their claim?</p> <p>9 MR. McDONALD: Objection to form.</p> <p>10 A. Yes, the verification -- I would</p> <p>11 say that the verification -- sorry. The</p> <p>12 verification of the process of agreeing the</p> <p>13 claims is still ongoing.</p> <p>14 Q. How many claims are subject to</p> <p>15 dispute today?</p> <p>16 A. Seven.</p> <p>17 Q. Are those seven claims held by</p> <p>18 seven different people and entities, or does</p> <p>19 one or more entity own one or more of those</p> <p>20 disputed claims?</p> <p>21 MR. McDONALD: John, just to</p> <p>22 interject. There are reports filed with</p> <p>23 the Cayman court, and we're kind of</p> <p>24 cutting close to a line here.</p> <p>25 To the extent generally you can</p>	<p style="text-align: right;">Page 83</p> <p>1 G. ROBINSON</p> <p>2 read back.)</p> <p>3 A. Seven separate entities.</p> <p>4 Q. Okay. So is it fair to say that</p> <p>5 Ascentra Holdings, Inc. has paid all creditors</p> <p>6 in full except for the seven entities who hold</p> <p>7 one disputed claim each?</p> <p>8 MR. McDONALD: Objection to form.</p> <p>9 A. Yes.</p> <p>10 DIR Q. Does the Ascentra Holdings estate</p> <p>11 have sufficient assets to pay those disputed</p> <p>12 claims in full if the holders of those claims</p> <p>13 prevail on their position that their claims</p> <p>14 are valid?</p> <p>15 MR. McDONALD: We're getting into</p> <p>16 the -- that line, and I'm going to</p> <p>17 object and direct the witness not to</p> <p>18 answer.</p> <p>19 MR. MORRIS: I just want to be</p> <p>20 really clear. I'm just asking for a</p> <p>21 yes-or-no answer here.</p> <p>22 DIR Q. Does the state -- does the estate</p> <p>23 have the sufficient assets to satisfy those</p> <p>24 contingent claims if they are ultimately</p> <p>25 deemed to be valid in the amounts that the</p>
<p style="text-align: right;">Page 82</p> <p>1 G. ROBINSON</p> <p>2 answer.</p> <p>3 But the court has sealed these</p> <p>4 reports, and they remain subject to</p> <p>5 court seal. So I'm just trying to keep</p> <p>6 that in mind here so that the witness</p> <p>7 isn't divulging information that is</p> <p>8 currently subject to a court order under</p> <p>9 seal.</p> <p>10 MR. MORRIS: Okay. I appreciate</p> <p>11 that --</p> <p>12 MR. McDONALD: In generality, yes.</p> <p>13 MR. MORRIS: I have no knowledge of</p> <p>14 any of that. And you'll instruct him</p> <p>15 not to answer if you think it's your</p> <p>16 responsibility to do that.</p> <p>17 MR. McDONALD: Right. I just</p> <p>18 wanted to make you aware of that, and</p> <p>19 that may be an objection or a direction</p> <p>20 at some point.</p> <p>21 MR. MORRIS: Okay.</p> <p>22 MR. McDONALD: Okay?</p> <p>23 MR. MORRIS: Can we have the</p> <p>24 question read back, please?</p> <p>25 (Requested portion of the record</p>	<p style="text-align: right;">Page 84</p> <p>1 G. ROBINSON</p> <p>2 claim-holders contend?</p> <p>3 MR. McDONALD: Again I'm going to</p> <p>4 object and direct the witness not to</p> <p>5 answer.</p> <p>6 Q. Are you going to follow counsel's</p> <p>7 advice?</p> <p>8 A. Yes.</p> <p>9 Q. Okay.</p> <p>10 MR. McDONALD: And, again, the</p> <p>11 basis of that is that it's requesting</p> <p>12 information that is currently under seal</p> <p>13 with the Cayman court by court order.</p> <p>14 REQ MR. MORRIS: I would request a copy</p> <p>15 of that court order in due course.</p> <p>16 BY MR. MORRIS:</p> <p>17 DIR Q. Can you tell me the aggregate value</p> <p>18 of the claims that are being asserted against</p> <p>19 the Ascentra Holdings, Inc. entity by the</p> <p>20 seven claim-holders?</p> <p>21 MR. McDONALD: Again I am going to</p> <p>22 object and direct the witness not to</p> <p>23 answer.</p> <p>24 MR. MORRIS: And is that also</p> <p>25 because there's a court order that would</p>

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<p style="text-align: right;">Page 85</p> <p>1 G. ROBINSON</p> <p>2 preclude him from answering?</p> <p>3 MR. McDONALD: There's a court</p> <p>4 order that has sealed that information</p> <p>5 that is contained in a report, yes. It</p> <p>6 would be requiring him to divulge</p> <p>7 information that is currently under</p> <p>8 seal. And we will happily send you that</p> <p>9 order.</p> <p>10 MR. MORRIS: Okay.</p> <p>11 BY MR. MORRIS:</p> <p>12 DIR Q. Can you identify for me the holders</p> <p>13 of the seven disputed claims?</p> <p>14 MR. McDONALD: Objection.</p> <p>15 I direct the witness not to answer.</p> <p>16 Q. Are you going to follow counsel's</p> <p>17 advice?</p> <p>18 A. Yes.</p> <p>19 Q. Can you tell me the value of any of</p> <p>20 the disputed claims?</p> <p>21 MR. McDONALD: I think that's been</p> <p>22 answered already.</p> <p>23 MR. MORRIS: If you are objecting</p> <p>24 as asked and answered, that's fine. I</p> <p>25 don't believe it was. So I'll ask for</p>	<p style="text-align: right;">Page 87</p> <p>1 G. ROBINSON</p> <p>2 reports, and that court report is sealed.</p> <p>3 Q. So I want to be really clear what I</p> <p>4 am asking here.</p> <p>5 Do you understand what a reserve</p> <p>6 is?</p> <p>7 A. In what way?</p> <p>8 Q. Has Ascentra Holdings, Inc. set</p> <p>9 money aside for the specific purpose of</p> <p>10 satisfying these disputed claims at some point</p> <p>11 in the future? Just yes or no.</p> <p>12 A. I'm going to refer you to my last</p> <p>13 answer.</p> <p>14 Q. Are you going to refuse to answer</p> <p>15 that question?</p> <p>16 A. I can't answer that question</p> <p>17 because it's based in the reports and those</p> <p>18 reports are sealed.</p> <p>19 So I'm not refusing to answer the</p> <p>20 question.</p> <p>21 Q. You believe you have an obligation</p> <p>22 not to disclose whether or not a reserve has</p> <p>23 been established.</p> <p>24 Do I understand that correctly?</p> <p>25 A. I'm an officer of the court in the</p>
<p style="text-align: right;">Page 86</p> <p>1 G. ROBINSON</p> <p>2 an answer.</p> <p>3 A. I believe I've answered that</p> <p>4 question.</p> <p>5 Q. Okay. Can you tell me again?</p> <p>6 A. 3.9 million.</p> <p>7 Q. Oh, I -- so that's the answer to</p> <p>8 the question of the largest claim, right?</p> <p>9 That's what I understood.</p> <p>10 A. Yeah.</p> <p>11 Q. Okay. Is that a disputed claim or</p> <p>12 an undisputed claim?</p> <p>13 A. Again, we discussed this and</p> <p>14 answered it was a disputed claim.</p> <p>15 Q. So that has not been paid, is that</p> <p>16 fair?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Has Ascentra Holdings, Inc.</p> <p>19 made any reserve on account of these claims?</p> <p>20 MR. McDONALD: Objection to the</p> <p>21 form.</p> <p>22 A. I'm uncertain if I can answer that</p> <p>23 because that refers to the ongoing incoming</p> <p>24 receipts and payments of the liquidation of</p> <p>25 the estate, and that's within the court</p>	<p style="text-align: right;">Page 88</p> <p>1 G. ROBINSON</p> <p>2 Cayman Islands. My report's been filed with</p> <p>3 the court, and the court has sealed it. I'm</p> <p>4 an officer of the court. I follow what the</p> <p>5 court has done.</p> <p>6 Q. Okay. I just wanted to make sure.</p> <p>7 Certain persons and entities have</p> <p>8 made claims in the liquidation by way of proof</p> <p>9 of debt, is that right?</p> <p>10 MR. McDONALD: Objection to form.</p> <p>11 A. Yes.</p> <p>12 Q. How many proofs of debt have been</p> <p>13 filed?</p> <p>14 MR. McDONALD: Objection to form.</p> <p>15 A. Eight, I believe.</p> <p>16 MR. MORRIS: I'll mark as the next</p> <p>17 exhibit, exhibit 5, Robinson 5, the</p> <p>18 report that was filed with the</p> <p>19 bankruptcy court in New York.</p> <p>20 (Robinson Exhibit 5, letter to the</p> <p>21 Court, dated December 29, 2023 was</p> <p>22 marked for identification.)</p> <p>23 BY MR. MORRIS:</p> <p>24 Q. You could take a quick look at it,</p> <p>25 or take as long as you need to look at it. My</p>

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1 G. ROBINSON
2 first question for you is whether you have
3 seen this before?
4 A. Yes, I've seen this document
5 before.
6 Q. Okay. And did you see it before it
7 was filed?
8 A. Yes.
9 Q. And so you were aware that it was
10 being filed on behalf of the joint official
11 liquidators in the Ascentra Chapter 15 case,
12 right?
13 A. Yes.
14 Q. Okay. If you could go to I guess
15 the last substantive page, page 4.
16 A. Okay.
17 Q. So directing your recollection to
18 the middle of the page, underneath the heading
19 "Additional Actions Undertaken By the
20 Liquidators," your counsel informed the court
21 in New York, quote, "The liquidators continue
22 to correspond with potential creditors and
23 parties who have made claims in the
24 liquidation by proof of debt."
25 Have I read that first sentence

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1 G. ROBINSON
2 correctly?
3 A. Yes.
4 Q. Okay. The phrase "potential
5 creditors," are those creditors who hold
6 contingent or disputed claims?
7 A. The two referred to here are the
8 seven I listed before, yes. Part of the
9 seven. Yes.
10 Q. Okay. So the potential creditors
11 are seven, and there's two of whom that are
12 referred to in the second sentence, is that
13 fair?
14 A. Yes.
15 Q. Okay. So if there are seven
16 potential creditors -- I think you mentioned
17 that there are eight proofs of debt that were
18 filed?
19 Do I have that right?
20 A. From memory, yes.
21 Q. And is that because one of the
22 proofs of debt was resolved?
23 A. Yes.
24 Q. And that proof of debt that was
25 resolved was paid in full, correct?

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1 G. ROBINSON
2 MR. McDONALD: Objection to form.
3 A. The proof of debt that was approved
4 by the liquidator has been paid, yes.
5 Q. In full. So again --
6 MR. McDONALD: Objection to form.
7 Q. So again, the only thing that is
8 outstanding today are the seven disputed
9 claims, is that fair?
10 MR. McDONALD: Objection to form.
11 A. In the Ascentra liquidation?
12 Q. Yes, sir.
13 A. Those seven, yes, and the members'
14 commissions that remain payable, yes.
15 Q. Are the members' commissions
16 obligations of the company or are they part of
17 the members' equity?
18 MR. McDONALD: Objection to form.
19 A. (No response.)
20 MR. MORRIS: Withdrawn.
21 Q. When you use the phrase "members'
22 commission," what are you referring to?
23 A. This -- this is the commissions
24 that are due to the -- to the members that
25 sold products on behalf of the Ascentra group.

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1 G. ROBINSON
2 Q. And are those commissions subject
3 to the proof-of-debt process?
4 A. Not at this stage.
5 Q. Why not?
6 A. No -- no -- no member has written
7 to the liquidators.
8 Q. So as of today no claim has been
9 made for the payment of a member's commission,
10 is that fair?
11 A. In the Ascentra liquidation?
12 Q. Yes, sir.
13 A. No.
14 Q. That's not fair?
15 A. Sorry. No, they have not
16 submitted ...
17 Q. Have members made claims for
18 commissions in any other liquidation that's
19 related to Ascentra Holdings, Inc.?
20 A. No.
21 Q. Would you have an obligation as the
22 joint official liquidator to pay the member
23 claim if you believe today that the claim was
24 valid?
25 MR. McDONALD: Objection to form.

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1 G. ROBINSON

2 A. Say the question again? Sorry.

3 Q. In your capacity as a joint

4 official liquidator, would you be duty-bound

5 to pay the commissions if you concluded that

6 they were a due and valid obligation of the

7 Ascentra Holdings, Inc. company?

8 MR. McDONALD: Objection to form.

9 A. If we've gone through the

10 verification process and we believed they were

11 due and payable, then they would be paid as

12 part of the liquidation process.

13 Q. And did you, in your capacity as

14 the joint official liquidator, undertake a

15 review of whether any membership commissions

16 were due by Ascentra Holdings, Inc.?

17 A. Yes.

18 Q. And have you concluded that no

19 membership commissions are due by Ascentra

20 Holdings, Inc.?

21 MR. McDONALD: Objection to form.

22 A. Say the question again?

23 Q. Have you concluded that Ascentra

24 Holdings, Inc. doesn't owe any membership

25 commissions?

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1 G. ROBINSON

2 A. I have not concluded that, no.

3 Q. You're still reviewing it?

4 A. The review process of the

5 commissions has not been finalized.

6 Q. Okay. But no member has made a

7 claim for commission, correct?

8 A. No member has made a claim for

9 commission in the Ascentra liquidation,

10 correct.

11 Q. Okay. Has any member made a claim

12 for commission in any other liquidation that

13 you are involved with?

14 A. No.

15 Q. Other than the seven disputed

16 claims or proofs of debt that you've

17 identified, are you aware of any other

18 contingent obligation that Ascentra Holdings,

19 Inc. has?

20 MR. McDONALD: Objection to form.

21 A. No.

22 Q. Looking down, still staying with

23 the same report --

24 A. Okay.

25 Q. -- towards the end it says, quote,

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1 G. ROBINSON

2 "The liquidators also received three

3 additional proofs of debt from Mr. Sanders on

4 November 10, 2023, which have not been

5 adjudicated yet."

6 Have I read that correctly?

7 A. You have.

8 Q. And are those three proofs of debt

9 among the eight that you identified earlier?

10 A. Yes.

11 Q. Okay. Does Mr. Sanders have any

12 other proofs of debt -- withdrawn.

13 Have any proofs of debt been filed

14 on Mr. Sanders' behalf other than those three?

15 A. No.

16 Q. And are those three proofs of debt,

17 are they filed on behalf of different entities

18 that are either owned or controlled by

19 Mr. Sanders, to the best of your knowledge?

20 A. Yes.

21 Q. So that among -- when you said

22 earlier that there were seven different

23 claim-holders or potential claim-holders,

24 three of them were affiliated with

25 Mr. Sanders, right?

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1 G. ROBINSON

2 A. Yes.

3 Q. Okay. Of the other four, is there

4 any affiliation between the holders of those

5 potential claims?

6 A. No.

7 Q. So you've got Mr. Sanders plus four

8 other folks who collectively hold seven

9 disputed claims, correct?

10 A. Yes.

11 Q. Okay. Can you describe for me the

12 nature of the three proofs of debt that were

13 filed on behalf of Mr. Sanders?

14 MR. McDONALD: Objection to form.

15 To the extent you can disclose

16 that.

17 A. No, we probably -- I probably

18 discussed the proof of debts with my Cayman

19 counsel, so I would say those discussions are

20 privileged.

21 Q. But you've discussed it with

22 somebody representing Mr. Sanders, right?

23 A. My attorneys have spoken to

24 Mr. Sanders' attorneys.

25 Q. Okay. So focussing on those

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1 G. ROBINSON
2 discussions, do you know what the nature of
3 Mr. Sanders' claim is?
4 Have you read the proofs of debt
5 that were filed on behalf of Mr. Sanders?
6 A. Yes.
7 Q. Do you have an understanding as to
8 the nature of the claim?
9 A. He claims he's owed money.
10 Q. Does he state why he believes he's
11 owed money?
12 A. He does.
13 DIR Q. Does he cite to any contract that
14 he believes he's entitled to recover damages
15 for, for breach?
16 MR. McDONALD: I'm going to object.
17 Those proofs of debt are still
18 confidential and the nature of those
19 claims and the nature of the
20 disagreement over those claims and the
21 negotiation of those claims are sealed
22 under -- as part of the report to the
23 court.
24 MR. MORRIS: So you're not going to
25 let him tell me if there's a contract

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1 G. ROBINSON
2 claim or a tort claim?
3 MR. McDONALD: No.
4 Q. Do you dispute Mr. Sanders' claims?
5 A. The verification process is still
6 ongoing. So ...
7 Q. You haven't agreed to pay the
8 claims, is that fair?
9 A. The verification process is still
10 ongoing.
11 Q. Do you dispute the validity of the
12 claims or the amount of the claims?
13 A. The verification process is still
14 ongoing.
15 Q. Can you describe for me what the
16 verification process is?
17 A. We review the proof of debts and
18 make an assessment on whether it's valid or
19 invalid.
20 Q. And when did he file the proofs of
21 debt?
22 MR. McDONALD: Objection to form.
23 A. I believe we received them in early
24 November 2023.
25 Q. And are the proofs of debt filed

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1 G. ROBINSON
2 with the court, or are they just given to you
3 in your capacity as the joint official
4 liquidator?
5 A. Just to me.
6 Q. Okay. So these are documents that
7 have not been filed with the court, correct?
8 A. There's no requirement to file
9 proof of debts separately into the Cayman
10 court.
11 Q. I appreciate that there's no
12 requirement. I'm just asking you if it
13 happened.
14 To the best of your knowledge, were
15 Mr. Sanders' proofs of debt filed with the
16 Cayman court?
17 A. No.
18 Q. Okay. Can you share with me
19 anything about the nature of the claims that
20 were delivered to you but not filed with the
21 Cayman court?
22 A. Say that question again? Sorry.
23 Q. Can you tell me the amount of any
24 of the three claims that were given to you but
25 not filed with the court?

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1 G. ROBINSON
2 MR. McDONALD: Again, that
3 information is subject to the seal
4 order.
5 MR. MORRIS: But it wasn't filed
6 with the court, right?
7 MR. McDONALD: The report
8 discussing the claims has been filed
9 with the court. The claims have been
10 received by the liquidator.
11 MR. MORRIS: And that's all I'm
12 asking about, is the claims -- I don't
13 care about any report filed with the
14 court.
15 So let me ask the question again.
16 MR. McDONALD: So --
17 MR. MORRIS: Let me ask the
18 question again.
19 MR. McDONALD: Okay.
20 DIR Q. The claims that were given to you
21 but not filed with the Court, can you tell me
22 what the amount of those claims are?
23 MR. McDONALD: I object.
24 Direct the witness not to answer.
25 The inspection of those proofs of

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<p>1 G. ROBINSON</p> <p>2 debt are limited to creditors and</p> <p>3 contributories and are to be kept</p> <p>4 confidential. The discussion of those</p> <p>5 are contained in a report that is filed</p> <p>6 with the court and is subject to seal.</p> <p>7 MR. MORRIS: Just help me</p> <p>8 understand, Hugh. Is there an order</p> <p>9 that was entered in this case that</p> <p>10 you're relying upon, or is it a Cayman</p> <p>11 Islands law?</p> <p>12 MR. McDONALD: It's a combination</p> <p>13 of both. There is, within the Cayman</p> <p>14 Islands, the Companies Act, as well as</p> <p>15 in the rules, a restriction on who can</p> <p>16 inspect proofs of debt, and the</p> <p>17 discussion of those proofs of debt are</p> <p>18 contained in a report that are subject</p> <p>19 to a court order sealing them.</p> <p>20 And so --</p> <p>21 MR. MORRIS: Okay. To be clear I'm</p> <p>22 not asking about that report.</p> <p>23 MR. McDONALD: I understand that.</p> <p>24 But the contents of those proofs of debt</p> <p>25 are discussed in a report that is</p>	<p>1 G. ROBINSON</p> <p>2 of debts, yes.</p> <p>3 Q. Okay. And do you have any</p> <p>4 reason -- do you have any expectation that</p> <p>5 they will be filed? Is it more than a hope?</p> <p>6 But based on your work, has anybody -- you</p> <p>7 know, do you have any expectation --</p> <p>8 MR. McDONALD: Wait for him to</p> <p>9 finish.</p> <p>10 Q. Okay. Do you have any reason to</p> <p>11 believe that somebody's going to file further</p> <p>12 proofs of debt? In the Ascentra Holdings,</p> <p>13 Inc. case.</p> <p>14 A. Just from experience of being a</p> <p>15 joint official liquidator and being involved</p> <p>16 in restructuring for 30-odd years, you expect</p> <p>17 the unexpected.</p> <p>18 Q. Okay. Other than that, do you have</p> <p>19 any reason to expect that any additional</p> <p>20 proofs of debt will be filed in the Ascentra</p> <p>21 Holdings, Inc. case?</p> <p>22 A. No.</p> <p>23 Q. Thank you.</p> <p>24 MR. MORRIS: Let's mark as the next</p> <p>25 exhibit another report that was given to</p>
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<p>1 G. ROBINSON</p> <p>2 subject to a seal.</p> <p>3 MR. MORRIS: Okay. And you guys</p> <p>4 will follow up with the identity of the</p> <p>5 order that you're relying on and the</p> <p>6 law, right?</p> <p>7 MR. McDONALD: Mm-hmm.</p> <p>8 MR. MORRIS: Okay.</p> <p>9 BY MR. MORRIS:</p> <p>10 Q. Is there a deadline for the filing</p> <p>11 of proofs of debt in this case, in the Cayman</p> <p>12 Islands?</p> <p>13 A. No.</p> <p>14 Q. Based on your review of the</p> <p>15 records, do you have any reason to believe --</p> <p>16 withdrawn.</p> <p>17 Based on your work as a joint</p> <p>18 official liquidator, do you have any</p> <p>19 expectation that any additional proofs of debt</p> <p>20 are likely to be filed?</p> <p>21 MR. McDONALD: Objection to form.</p> <p>22 A. Specifically to the Ascentra --</p> <p>23 Q. Yes.</p> <p>24 A. -- liquidation?</p> <p>25 I'm hopeful there's no other proof</p>	<p>1 G. ROBINSON</p> <p>2 the court in New York.</p> <p>3 THE WITNESS: Can we just do a</p> <p>4 five-minute toilet break?</p> <p>5 MR. MORRIS: Sure, you bet.</p> <p>6 THE VIDEOGRAPHER: This ends</p> <p>7 unit 3. We're off the record at 11:52.</p> <p>8 (Recess taken.)</p> <p>9 THE VIDEOGRAPHER: This begins</p> <p>10 unit 4. We're on the record at 12:03.</p> <p>11 (Robinson Exhibit 6, Letter to the</p> <p>12 Court dated June 30, 2023 was marked for</p> <p>13 identification.)</p> <p>14 BY MR. MORRIS:</p> <p>15 Q. All right. Mr. Robinson, you have</p> <p>16 in front of you what has been marked as</p> <p>17 Robinson exhibit 6. It's another document</p> <p>18 that was filed with the court.</p> <p>19 Have you taken a moment to look</p> <p>20 at it?</p> <p>21 A. Yes.</p> <p>22 Q. Okay. And you saw it before it was</p> <p>23 filed, is that right?</p> <p>24 A. Yes.</p> <p>25 Q. Okay. Directing your attention to</p>

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<p style="text-align: right;">Page 105</p> <p>1 G. ROBINSON</p> <p>2 the second paragraph on the first page,</p> <p>3 there's a statement in there that says, quote,</p> <p>4 "As a result of various shareholder disputes,</p> <p>5 on June 1, 2021 Ascentra was placed into</p> <p>6 voluntary liquidation in the Cayman Islands by</p> <p>7 its shareholders."</p> <p>8 Have I read that correctly?</p> <p>9 A. Yes.</p> <p>10 Q. And is that accurate, to the best</p> <p>11 of your knowledge?</p> <p>12 A. To the best of my knowledge, yes.</p> <p>13 Q. Okay. Are you aware of any reason</p> <p>14 that Ascentra was placed in voluntary</p> <p>15 liquidation other than various shareholder</p> <p>16 disputes?</p> <p>17 A. No.</p> <p>18 Q. Thank you.</p> <p>19 And if you can go to the second</p> <p>20 page on the back of the document. The end of</p> <p>21 the middle paragraph says, quote, "Further,</p> <p>22 the liquidators have corresponded with various</p> <p>23 potential creditors of Ascentra and requested</p> <p>24 proofs of debt to be submitted."</p> <p>25 Did I read that correctly?</p>	<p style="text-align: right;">Page 107</p> <p>1 G. ROBINSON</p> <p>2 got a pretty simple function, and that is to</p> <p>3 get in the assets, realize the assets, and</p> <p>4 then distribute the assets to the creditors.</p> <p>5 And one of my jobs as a joint</p> <p>6 official liquidator is to approve creditor</p> <p>7 claims, and that's in a quasi-judicial way as</p> <p>8 an officer of the court. So that's what we</p> <p>9 do.</p> <p>10 Q. So is it fair to say that you</p> <p>11 request a proof of debt if somebody comes to</p> <p>12 you and says the entity that's being</p> <p>13 liquidated owes them money, and then you say,</p> <p>14 well, send me a proof of debt and we'll figure</p> <p>15 it out?</p> <p>16 A. Yeah, there's no right or wrong way</p> <p>17 of how a proof is received or not received or</p> <p>18 how you agree a claim. But yeah, one way</p> <p>19 would be, if someone came to you and requested</p> <p>20 a claim they were owed money, you would enter</p> <p>21 correspondence and you could request they</p> <p>22 submit a formal proof of debt.</p> <p>23 Q. Okay. And this is the process that</p> <p>24 led to the seven remaining proofs of debt,</p> <p>25 correct? That are disputed.</p>
<p style="text-align: right;">Page 106</p> <p>1 G. ROBINSON</p> <p>2 A. Which paragraph is that?</p> <p>3 Q. It's the middle one that begins "In</p> <p>4 the Cayman proceeding."</p> <p>5 A. Okay.</p> <p>6 Q. So now I'm looking at the last</p> <p>7 sentence that begins "Further --</p> <p>8 A. Oh, "Further." I see it. Sorry.</p> <p>9 I see it.</p> <p>10 Q. That's okay. Are you with me now?</p> <p>11 Take a moment to read it.</p> <p>12 A. Okay, yes.</p> <p>13 Q. And so this is dated in June.</p> <p>14 Would this have been part of the process of</p> <p>15 soliciting the proofs of debt that resulted</p> <p>16 in, I guess, the ones that we talked about</p> <p>17 earlier?</p> <p>18 A. Yeah, these -- these relate to the</p> <p>19 creditors we discussed previously. Yes.</p> <p>20 Q. Okay. And under what</p> <p>21 circumstances, if you recall, did you request</p> <p>22 that proofs of debt be submitted? Like, why</p> <p>23 do you do that?</p> <p>24 MR. McDONALD: Objection to form.</p> <p>25 A. Well, the official liquidator has</p>	<p style="text-align: right;">Page 108</p> <p>1 G. ROBINSON</p> <p>2 MR. McDONALD: Objection to form.</p> <p>3 A. Yeah, creditors can come to you,</p> <p>4 and you can go to potential creditors as well.</p> <p>5 Q. Okay. How many proofs of debt did</p> <p>6 the joint official liquidators request, as</p> <p>7 opposed to how many proofs -- let's just start</p> <p>8 with there.</p> <p>9 How many did you request be filed?</p> <p>10 A. How many proof of debts did the</p> <p>11 joint official liquidators of Ascentra request</p> <p>12 from potential creditors?</p> <p>13 Q. Mm-hmm.</p> <p>14 A. I don't know the exact number from</p> <p>15 memory. Out of the eight that we received,</p> <p>16 from memory I would say we requested six.</p> <p>17 Q. And would they include Mr. Sanders'</p> <p>18 three?</p> <p>19 A. Yes.</p> <p>20 Q. Why did you request Mr. Sanders to</p> <p>21 file proofs of debt?</p> <p>22 A. I don't -- SPGK and the defendants,</p> <p>23 all the defendants are not an admitted</p> <p>24 creditor in the liquidation, and you are not</p> <p>25 entitled to that information.</p>

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<p>1 G. ROBINSON</p> <p>2 THE COURT REPORTER: Can you just</p> <p>3 repeat that? All of defendants are</p> <p>4 not ...</p> <p>5 A. An admitted creditor in the</p> <p>6 liquidation under Cayman law.</p> <p>7 Q. So you believe you have a duty not</p> <p>8 to tell me the answer to the question because</p> <p>9 in your view SPGK is not entitled to receive</p> <p>10 it under Cayman law, is that right?</p> <p>11 A. Say that again? Sorry.</p> <p>12 Q. I just want to make sure that I</p> <p>13 understand. I don't mean to be contentious at</p> <p>14 all.</p> <p>15 You're refusing to answer my</p> <p>16 question because SPGK is not a creditor in the</p> <p>17 Ascentra Holdings, Inc. bankruptcy, is that</p> <p>18 right?</p> <p>19 A. I wouldn't -- I'm not refusing to</p> <p>20 answer your question. I can't answer your</p> <p>21 question.</p> <p>22 Q. Okay. That's --</p> <p>23 A. That's a big difference.</p> <p>24 Q. Well, you're refusing because you</p> <p>25 believe you have an obligation not to disclose</p>	<p>1 G. ROBINSON</p> <p>2 matters that we're talking about.</p> <p>3 Is that fair?</p> <p>4 A. Yeah. You're not an admitted</p> <p>5 creditor.</p> <p>6 Q. Okay. Let's start with what's an</p> <p>7 admitted creditor?</p> <p>8 A. A creditor that the claim has been</p> <p>9 admitted by the joint official liquidators.</p> <p>10 Q. Meaning that it's no longer</p> <p>11 disputed?</p> <p>12 A. Yes. It's admitted.</p> <p>13 Q. So Mr. Sanders is not an admitted</p> <p>14 creditor, is that right?</p> <p>15 A. Correct.</p> <p>16 MR. McDONALD: Objection to form.</p> <p>17 Q. So I appreciate what you're saying,</p> <p>18 and now I am going to ask you a different</p> <p>19 question.</p> <p>20 Even though they don't have the</p> <p>21 right to the information, is there any legal</p> <p>22 prohibition, to the best of your knowledge,</p> <p>23 that would prohibit you from disclosing it?</p> <p>24 A. Just say the question again?</p> <p>25 Sorry.</p>
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<p>1 G. ROBINSON</p> <p>2 it. Is that fair?</p> <p>3 A. Under Cayman law -- you are not an</p> <p>4 admitted creditor, and you're not entitled to</p> <p>5 that information under Cayman law.</p> <p>6 Q. Okay. So let me just ask you, as</p> <p>7 an experienced insolvency practitioner in the</p> <p>8 Cayman Islands and one licensed to serve as a</p> <p>9 liquidator, do you have any ability to share</p> <p>10 this information -- withdrawn.</p> <p>11 I understand your position that</p> <p>12 SPGK has no right to the information. My</p> <p>13 question for you: Is there anything that</p> <p>14 prohibits you from disclosing the information?</p> <p>15 MR. McDONALD: Objection to form.</p> <p>16 A. I think I'll just refer you to my</p> <p>17 previous answer.</p> <p>18 Q. And I'm trying to parse that</p> <p>19 through.</p> <p>20 I understand that you believe that</p> <p>21 under Cayman law -- and I don't mean to be</p> <p>22 contentious --</p> <p>23 A. That's okay.</p> <p>24 Q. -- that under Cayman law SPGK has</p> <p>25 no right to know anything about the subject</p>	<p>1 G. ROBINSON</p> <p>2 Q. Is there any legal impediment, you</p> <p>3 know, is there any legal prohibition that</p> <p>4 prevents you from disclosing the information,</p> <p>5 or it's just that SPGK has no right to</p> <p>6 receive it?</p> <p>7 A. SPGK has no right to receive it.</p> <p>8 Q. I understand. But is there any --</p> <p>9 do you have a legal duty not to disclose it,</p> <p>10 or is it just that they have no right to</p> <p>11 receive it?</p> <p>12 Do you understand the distinction</p> <p>13 that I'm making?</p> <p>14 MR. McDONALD: Yeah, I'm going to</p> <p>15 object. I think as I discussed earlier,</p> <p>16 the information concerning the proofs of</p> <p>17 debt is contained in reports that have</p> <p>18 been filed with the court that are</p> <p>19 subject to seal.</p> <p>20 So is there a legal impediment?</p> <p>21 Yes. He's an officer of the court, and</p> <p>22 he's bound by the orders of the court.</p> <p>23 MR. MORRIS: So is there any</p> <p>24 information at all that you are willing</p> <p>25 to let him testify to other than the</p>

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<p style="text-align: right;">Page 113</p> <p>1 G. ROBINSON</p> <p>2 number of outstanding disputed claims?</p> <p>3 MR. McDONALD: As to the nature and</p> <p>4 identity and basis for the claims and</p> <p>5 the nature of any disputes over the</p> <p>6 claims? No. He's not going to be able</p> <p>7 to testify.</p> <p>8 MR. MORRIS: And is that because</p> <p>9 the information was filed with the</p> <p>10 court, or is there something else that</p> <p>11 prohibits it?</p> <p>12 MR. McDONALD: It's a combination</p> <p>13 of the statute rules and orders of the</p> <p>14 court that prohibit him from disclosing</p> <p>15 that information.</p> <p>16 MR. MORRIS: Okay.</p> <p>17 Q. Okay. We're going to go to topic 5</p> <p>18 on the 30(b)(6) list, which was exhibit 1, and</p> <p>19 that relates to applications for sanction.</p> <p>20 Can you tell me what an application</p> <p>21 for sanction is, in the context of a Cayman</p> <p>22 Islands liquidation proceeding?</p> <p>23 A. Well, so to answer your question</p> <p>24 for me as a joint official liquidator,</p> <p>25 basically our powers are split between powers</p>	<p style="text-align: right;">Page 115</p> <p>1 G. ROBINSON</p> <p>2 Inc. proceedings in the Cayman Islands?</p> <p>3 MR. McDONALD: Objection to form.</p> <p>4 A. No creditor or potential creditor</p> <p>5 has applied for sanction, yes.</p> <p>6 Q. Okay. Is it your understanding as</p> <p>7 a licensed insolvency practitioner that</p> <p>8 creditors and potential creditors of an</p> <p>9 insolvent company or a company of doubtful</p> <p>10 insolvency have the ability to apply for</p> <p>11 sanction?</p> <p>12 MR. McDONALD: Objection. That's</p> <p>13 calling for a legal conclusion.</p> <p>14 Q. Okay. Subject to that objection</p> <p>15 you can answer.</p> <p>16 A. Just repeat the question for me,</p> <p>17 please?</p> <p>18 Q. Sure. As a licensed insolvency</p> <p>19 practitioner in the Cayman Islands, do</p> <p>20 creditors or potential creditors of insolvent</p> <p>21 companies or companies of doubtful insolvency,</p> <p>22 do they have a right to apply for sanction?</p> <p>23 MR. McDONALD: Objection; calls for</p> <p>24 a legal conclusion.</p> <p>25 Q. You can answer.</p>
<p style="text-align: right;">Page 114</p> <p>1 G. ROBINSON</p> <p>2 that we need the court sanction for and powers</p> <p>3 that we don't need sanction for.</p> <p>4 So ultimately we -- if there are</p> <p>5 certain things that we need to do as part of</p> <p>6 the liquidation process, then we would, with</p> <p>7 our counsel, we would make applications to the</p> <p>8 courts.</p> <p>9 Q. So there are certain things that</p> <p>10 you may want to do that you need court</p> <p>11 permission for, is that fair?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. Do creditors and the</p> <p>14 liquidation of a solvent entity have any</p> <p>15 ability to apply for sanction?</p> <p>16 A. They have no ability to apply for</p> <p>17 sanction.</p> <p>18 Q. Okay. And so then is it fair to</p> <p>19 say that no creditor or potential creditor of</p> <p>20 Ascentra Holdings, Inc. has ever applied for</p> <p>21 sanction in that case?</p> <p>22 A. Sorry. Just say that again?</p> <p>23 Q. Is it fair to say then that no</p> <p>24 creditor or potential creditor has applied</p> <p>25 for sanction of the Ascentra Holdings,</p>	<p style="text-align: right;">Page 116</p> <p>1 G. ROBINSON</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Do you know whether any</p> <p>4 potential creditor -- withdrawn.</p> <p>5 Do you know whether any creditor or</p> <p>6 potential creditor -- withdrawn.</p> <p>7 Is the Ascentra Holdings, Inc. case</p> <p>8 pending before a particular bankruptcy --</p> <p>9 withdrawn.</p> <p>10 Is the Ascentra Holdings, Inc. case</p> <p>11 pending before a particular judge in the</p> <p>12 Cayman Islands?</p> <p>13 A. Yes.</p> <p>14 Q. And what's the name of the judge?</p> <p>15 A. Doyle.</p> <p>16 Q. Doyle. Can I refer to him as Judge</p> <p>17 Doyle, or is it Justice Doyle?</p> <p>18 MR. COWAN: Mr. Justice Doyle.</p> <p>19 MR. MORRIS: Mr. Justice Doyle.</p> <p>20 Q. To the best of your knowledge,</p> <p>21 since the case was commenced has any creditor</p> <p>22 or potential creditor appeared before</p> <p>23 Mr. Justice Doyle?</p> <p>24 A. In the Ascentra liquidation?</p> <p>25 Q. Yes.</p>

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<p>1 G. ROBINSON</p> <p>2 A. Yes.</p> <p>3 Q. Okay. Can you identify the</p> <p>4 creditor or potential creditor who appeared</p> <p>5 before Mr. Justice Doyle in the Ascentra</p> <p>6 bankruptcy case?</p> <p>7 A. Your defendants.</p> <p>8 Q. Okay. Is there any other creditor</p> <p>9 or potential creditor -- withdrawn.</p> <p>10 When you refer to my defendants</p> <p>11 you're referring to my clients who are the</p> <p>12 defendants in the complaint that was filed on</p> <p>13 your behalf in the Cayman Islands, is that</p> <p>14 right?</p> <p>15 A. That's the party that I'm</p> <p>16 referring to, if you said they have been in</p> <p>17 front -- they have appeared in the sanction,</p> <p>18 then yes.</p> <p>19 Q. Other than my clients, is there any</p> <p>20 other creditor or potential creditor who has</p> <p>21 ever appeared before Mr. Justice Doyle in the</p> <p>22 Ascentra Holdings, Inc. liquidation case?</p> <p>23 A. No.</p> <p>24 Q. Do you have access to the documents</p> <p>25 that are filed with the court in the Cayman</p>	<p>1 G. ROBINSON</p> <p>2 A. So have they appeared in something</p> <p>3 else?</p> <p>4 Q. Correct.</p> <p>5 A. Yes.</p> <p>6 Q. Do you have an understanding of</p> <p>7 what -- in what capacity they appeared before</p> <p>8 Mr. Justice Doyle other than as a defendant in</p> <p>9 that lawsuit?</p> <p>10 A. Say that again? Sorry.</p> <p>11 Q. It's okay. My clients have the</p> <p>12 information.</p> <p>13 MR. MORRIS: Let's move along.</p> <p>14 We've got -- the next document is</p> <p>15 what? 7?</p> <p>16 THE COURT REPORTER: Yes.</p> <p>17 MR. MORRIS: It's going to be the</p> <p>18 foreign representatives' objection to</p> <p>19 the motion to terminate the restraint.</p> <p>20 THE WITNESS: Okay.</p> <p>21 (Robinson Exhibit 7, Foreign</p> <p>22 Representatives' Objection to Motion of</p> <p>23 SPGK to Terminate Restraint was marked</p> <p>24 for identification.)</p> <p>25 MR. McDONALD: I'm sorry, this was</p>
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<p>1 G. ROBINSON</p> <p>2 Islands?</p> <p>3 A. Only through my Cayman attorneys.</p> <p>4 Q. And is it one of your</p> <p>5 responsibilities to be at least generally</p> <p>6 familiar with the documents that are filed in</p> <p>7 the Cayman court in connection with the</p> <p>8 Ascentra Holdings, Inc. bankruptcy?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And in carrying out that</p> <p>11 responsibility, are you aware of any</p> <p>12 document that was filed in the Ascentra</p> <p>13 Holdings, Inc. liquidation case by a creditor</p> <p>14 or potential creditor other than my clients?</p> <p>15 A. No.</p> <p>16 Q. Thank you. Have my clients</p> <p>17 appeared in the Cayman case of Ascentra</p> <p>18 Holdings, Inc. in any capacity other than as</p> <p>19 defendants in the lawsuit that was commenced</p> <p>20 against them?</p> <p>21 MR. McDONALD: Objection to form.</p> <p>22 A. When you say "the lawsuit," are</p> <p>23 you referring to the one that we filed on the</p> <p>24 11th of October 2023?</p> <p>25 Q. Yes, sir.</p>	<p>1 G. ROBINSON</p> <p>2 7 you said?</p> <p>3 MR. MORRIS: Yes.</p> <p>4 THE COURT REPORTER: Yes.</p> <p>5 BY MR. MORRIS:</p> <p>6 Q. I'll just mark it to identify it,</p> <p>7 but I don't know that I am going to ask you</p> <p>8 any questions in hindsight.</p> <p>9 Is this the objection that was</p> <p>10 filed on your behalf in New York with respect</p> <p>11 to SPGK's motion to terminate the restraint on</p> <p>12 the Planet Payment funds?</p> <p>13 (The witness reviews document.)</p> <p>14 A. Yes.</p> <p>15 Q. Okay. And if you turn to just</p> <p>16 page 27, I guess I'll ask one question.</p> <p>17 A. Twenty-seven. Okay.</p> <p>18 Q. In the middle of the page, under</p> <p>19 "Likelihood of Success on the Merits," you'll</p> <p>20 see there's a statement, "Second," quote, "as</p> <p>21 to the liquidators' claim to the Planet</p> <p>22 Payment Funds as set forth in detail above,</p> <p>23 the contractual and equitable bases remain and</p> <p>24 indeed are stronger following Mr. Yoshida's</p> <p>25 deposition."</p>

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1 G. ROBINSON
2 Do you see that?
3 A. Where does it start?
4 Q. The word "Second" begins at the end
5 of about the fifth line down.
6 A. Yes.
7 Q. So I'm just focused on that
8 particular sentence.
9 A. Okay.
10 Q. And do you understand that SPGK has
11 asked the bankruptcy court in New York to lift
12 the restriction on the funds that originated
13 at Planet Payment?
14 A. Yes.
15 Q. And do you understand that your
16 counsel on your behalf has opposed that motion
17 saying that they have a legal and equitable
18 right to the Planet Payment money?
19 A. Yes.
20 Q. Okay. And do you understand that
21 topics 6 through 9 of the 30(b)(6) topics are
22 intended to cover the documents and facts
23 concerning your position as to the legal and
24 equitable bases to the claim to the money?
25 A. I've read paragraph 6 to 9.

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1 G. ROBINSON
2 Q. Okay.
3 MR. MORRIS: Let's now mark as the
4 next exhibit, which I guess is 9 --
5 THE COURT REPORTER: 8.
6 MR. McDONALD: 8.
7 MR. MORRIS: 8. Thank you.
8 -- a report to the Court dated
9 October 11.
10 (Robinson Exhibit 8, Letter to the
11 Court dated October 11, 2023 was marked
12 for identification.)
13 BY MR. MORRIS:
14 Q. Were you aware that this letter was
15 sent to the court in New York in October 2023?
16 A. Yes.
17 Q. Okay. And so did you authorize
18 your counsel to give the judge in New York a
19 copy of the pleading, the amended pleading
20 that was filed in the Cayman Islands?
21 A. Yes.
22 DIR Q. And was the purpose of providing
23 that to the Court so that the Court would see
24 the contractual and equitable claims that the
25 Ascentra Holdings, Inc. company was asserting

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1 G. ROBINSON
2 against the Planet Payment money?
3 MR. McDONALD: Objection.
4 Q. You can answer.
5 MR. McDONALD: It calls for the
6 disclosure of attorney-client
7 communication.
8 MR. MORRIS: I'm not asking for
9 anything about any communication. I'm
10 asking for --
11 MR. McDONALD: You're asking why.
12 That was done in consultation with
13 counsel.
14 MR. MORRIS: Are you directing him
15 not to answer?
16 MR. McDONALD: I am directing him
17 not to answer.
18 MR. MORRIS: So if he was in front
19 of the judge today and the judge said,
20 "Why did you send me this," you would
21 say, "I can't tell you"?
22 You would direct him not to answer
23 because --
24 MR. McDONALD: It's an obligation
25 of a foreign representative to apprise

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1 G. ROBINSON
2 the court of any developments in the
3 foreign jurisdiction, and we have done
4 so. That is set forth in Chapter 15.
5 Q. Is it your understanding that the
6 complaint sets forth contractual and equitable
7 bases for Ascentra Holdings, Inc. claim to the
8 Planet Payment money?
9 MR. McDONALD: Objection to form.
10 A. Say the question again, please?
11 Q. Is it your understanding that the
12 complaint that was filed in the Cayman Islands
13 sets forth the contractual and equitable bases
14 for Ascentra Holdings, Inc.'s claim to the
15 Planet Payment funds?
16 A. The facts and documents that
17 support our claim are set out in this amended
18 complaint.
19 DIR Q. Okay. I just have a few questions
20 about that. If we can go to paragraph 37.
21 Paragraph 37 identifies three
22 specific agreements.
23 Do I have that right?
24 MR. McDONALD: I am going to object
25 and direct the witness not to answer.

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<p>1 G. ROBINSON</p> <p>2 We're not taking a deposition in the</p> <p>3 Cayman proceeding here. Your client has</p> <p>4 answered, asserted defenses and a</p> <p>5 counterclaim. We have responded. The</p> <p>6 matter is taking place in the Cayman</p> <p>7 Islands.</p> <p>8 MR. MORRIS: We don't need the</p> <p>9 speech. We understand it. You could</p> <p>10 just direct him not to answer on the</p> <p>11 account -- on account that there's a</p> <p>12 pending proceeding.</p> <p>13 MR. McDONALD: I'm directing him</p> <p>14 not to answer on account there's a</p> <p>15 pending proceeding.</p> <p>16 MR. MORRIS: Okay. But I am going</p> <p>17 to ask my questions anyway, and we'll</p> <p>18 make the record. Is that fair?</p> <p>19 MR. McDONALD: That's fine.</p> <p>20 MR. MORRIS: Okay.</p> <p>21 DIR Q. Does paragraph 37 set forth --</p> <p>22 identify three particular documents that were</p> <p>23 executed by SPGK Cayman?</p> <p>24 MR. McDONALD: The same</p> <p>25 instruction.</p>	<p>1 G. ROBINSON</p> <p>2 A. Yes.</p> <p>3 DIR Q. Do you know whether the legal</p> <p>4 and equitable bases for Ascentra Holdings,</p> <p>5 Inc. claim to the Planet Payment funds are set</p> <p>6 forth anywhere other than this document and</p> <p>7 exhibit 7?</p> <p>8 MR. McDONALD: The same objection.</p> <p>9 The same direction.</p> <p>10 MR. MORRIS: So we can't even find</p> <p>11 out if there's another place to look?</p> <p>12 MR. McDONALD: As I said, your</p> <p>13 client has submitted defenses. We have</p> <p>14 responded to those. There will be a</p> <p>15 hearing in the Caymans where additional</p> <p>16 evidence will be adduced and presented</p> <p>17 to the Court. So he's not testifying</p> <p>18 about that. That's all privileged, as</p> <p>19 to whether or not there will be anything</p> <p>20 else forthcoming in this matter.</p> <p>21 MR. MORRIS: Like I said, we'll</p> <p>22 either do the preclusion order or we'll</p> <p>23 do the follow-up. But I appreciate</p> <p>24 that.</p> <p>25 Can we take a break?</p>
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<p>1 G. ROBINSON</p> <p>2 Q. Are you going to follow counsel's</p> <p>3 advice?</p> <p>4 A. Yes.</p> <p>5 DIR Q. Okay. Are these documents relevant</p> <p>6 to Ascentra Holdings, Inc.'s claim to the</p> <p>7 Planet Payment funds?</p> <p>8 MR. McDONALD: Objection. The same</p> <p>9 direction.</p> <p>10 Q. Are you going to follow counsel's</p> <p>11 advice?</p> <p>12 A. Yes.</p> <p>13 DIR Q. Have you personally reviewed these</p> <p>14 three documents?</p> <p>15 MR. McDONALD: Objection. The same</p> <p>16 direction.</p> <p>17 Q. Are you going to follow counsel's</p> <p>18 advice?</p> <p>19 A. Yes.</p> <p>20 DIR Q. Do you know why these three</p> <p>21 documents are cited in this complaint?</p> <p>22 MR. McDONALD: The same objection.</p> <p>23 The same direction.</p> <p>24 Q. Are you going to follow counsel's</p> <p>25 advice?</p>	<p>1 G. ROBINSON</p> <p>2 MR. McDONALD: Sure.</p> <p>3 THE VIDEOGRAPHER: This ends</p> <p>4 unit 4. We're off the record at 12:32.</p> <p>5 (Recess taken.)</p> <p>6 THE VIDEOGRAPHER: This begins</p> <p>7 unit 5. We're on the record at 12:44.</p> <p>8 BY MR. MORRIS:</p> <p>9 Q. Mr. Robinson, can you grab exhibit</p> <p>10 number 1, please.</p> <p>11 A. Okay.</p> <p>12 DIR Q. Look at topic 6.</p> <p>13 Can you identify for me the</p> <p>14 documents that the foreign representatives</p> <p>15 contend support their assertion that they can</p> <p>16 establish a likelihood of success on the</p> <p>17 merits with respect to their contractual basis</p> <p>18 for entitlement to the Planet Payment funds?</p> <p>19 MR. McDONALD: Objection.</p> <p>20 I direct the witness not to answer</p> <p>21 on the basis of a pending proceeding.</p> <p>22 Q. Are you going to follow counsel's</p> <p>23 advice?</p> <p>24 A. Yes.</p> <p>25 DIR Q. Can you turn the page, please, to</p>

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<p>1 G. ROBINSON</p> <p>2 number 7.</p> <p>3 Can you describe for me all facts</p> <p>4 that the foreign representatives contend</p> <p>5 support their assertion that they can</p> <p>6 establish a likelihood of success on the</p> <p>7 merits with respect to a contractual basis for</p> <p>8 entitlement to the Planet Payment funds?</p> <p>9 MR. McDONALD: The same objection.</p> <p>10 The same direction.</p> <p>11 Also calls for divulging</p> <p>12 attorney-client communications.</p> <p>13 Q. You are going to follow counsel's</p> <p>14 advice?</p> <p>15 A. Yes.</p> <p>16 MR. MORRIS: To be clear, I'm not</p> <p>17 asking for any attorney-client</p> <p>18 privileged communications. I'm just</p> <p>19 asking for facts.</p> <p>20 MR. McDONALD: Understood.</p> <p>21 MR. MORRIS: Okay. So I want to</p> <p>22 just --</p> <p>23 MR. McDONALD: The same objection.</p> <p>24 The same direction.</p> <p>25 MR. MORRIS: Okay.</p>	<p>1 G. ROBINSON</p> <p>2 asking for documents.</p> <p>3 Q. Number 9. Can you please -- are</p> <p>4 you going to follow counsel's advice?</p> <p>5 A. Yes.</p> <p>6 DIR Q. Number 9. Can you please share</p> <p>7 with us the facts that the foreign</p> <p>8 representatives contend support their</p> <p>9 assertion that they can establish a likelihood</p> <p>10 of success on the merits with respect to an</p> <p>11 equitable basis for entitlement to the Planet</p> <p>12 Payment funds?</p> <p>13 MR. McDONALD: The same objection.</p> <p>14 The same direction.</p> <p>15 Q. Are you going to follow counsel's</p> <p>16 advice?</p> <p>17 A. Yes.</p> <p>18 DIR Q. Do you know if Ascentra Holdings,</p> <p>19 Inc. ever had a contract with Planet Payment</p> <p>20 for any purpose?</p> <p>21 MR. McDONALD: Objection; the same</p> <p>22 direction.</p> <p>23 Q. Are you going to follow counsel's</p> <p>24 advice?</p> <p>25 A. Yes.</p>
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<p>1 G. ROBINSON</p> <p>2 DIR Q. Looking at topic number 8, can you</p> <p>3 please tell me all of the documents that the</p> <p>4 foreign representatives contend support their</p> <p>5 assertion that they can establish a likelihood</p> <p>6 of success on the merits with respect to an</p> <p>7 equitable basis for entitlement to the Planet</p> <p>8 Payment funds?</p> <p>9 MR. McDONALD: The same objection.</p> <p>10 The same direction.</p> <p>11 MR. MORRIS: Does that include</p> <p>12 attorney-client privilege or just the</p> <p>13 pending-proceeding objection?</p> <p>14 MR. McDONALD: You said you're not</p> <p>15 asking for any attorney-client</p> <p>16 privileged information.</p> <p>17 MR. MORRIS: Correct.</p> <p>18 MR. McDONALD: So I'm just going</p> <p>19 with the same objection, the same</p> <p>20 direction.</p> <p>21 MR. MORRIS: Thank you.</p> <p>22 MR. McDONALD: And to the extent it</p> <p>23 does call for divulging attorney-client</p> <p>24 privilege, as I said before ...</p> <p>25 MR. MORRIS: But, again, I'm just</p>	<p>1 G. ROBINSON</p> <p>2 DIR Q. Do you know whether any subsidiary</p> <p>3 of Ascentra Holdings, Inc. ever had a contract</p> <p>4 of any kind with Planet Payment?</p> <p>5 MR. McDONALD: The same direction.</p> <p>6 The same objection. The same direction.</p> <p>7 Q. Are you going to follow counsel's</p> <p>8 advice?</p> <p>9 A. Yes.</p> <p>10 DIR Q. Does Ascentra Holdings, Inc. rely</p> <p>11 upon the cancellation agreement to support its</p> <p>12 claim to the Planet Payment funds?</p> <p>13 MR. McDONALD: The same objection.</p> <p>14 The same direction.</p> <p>15 Q. Are you going to follow counsel's</p> <p>16 advice?</p> <p>17 A. Yes.</p> <p>18 DIR Q. Do you understand what the</p> <p>19 cancellation is agreement -- withdrawn.</p> <p>20 Do you understand what the</p> <p>21 cancellation agreement is that I referred to?</p> <p>22 MR. McDONALD: The same</p> <p>23 direction -- the same objection. The</p> <p>24 same direction.</p> <p>25 MR. MORRIS: All right. I'll show</p>

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<p>1 G. ROBINSON</p> <p>2 it to him just so there's no ambiguity.</p> <p>3 Let's mark as the next exhibit --</p> <p>4 What is it, number 9?</p> <p>5 THE COURT REPORTER: Yes, sir.</p> <p>6 MR. MORRIS: -- the cancellation</p> <p>7 agreement.</p> <p>8 (Robinson Exhibit 9, Exhibit E to</p> <p>9 declaration of Graham Robinson was</p> <p>10 marked for identification.)</p> <p>11 Q. Have you seen this document</p> <p>12 before, sir?</p> <p>13 A. Yes.</p> <p>14 Q. And do you recall that this</p> <p>15 document was attached as an exhibit to one of</p> <p>16 the declarations that was filed on your behalf</p> <p>17 in the Ascentra Holdings, Inc. Chapter 15</p> <p>18 matter?</p> <p>19 A. Yes.</p> <p>20 DIR Q. Okay. Does Ascentra Holdings,</p> <p>21 Inc. rely on this document in any way to</p> <p>22 support its contention that it's likely to</p> <p>23 succeed on the merits of its claim to the</p> <p>24 Planet Payment funds?</p> <p>25 MR. McDONALD: The same objection.</p>	<p>1 G. ROBINSON</p> <p>2 MR. MORRIS: And would you follow</p> <p>3 counsel's advice in that regard?</p> <p>4 THE WITNESS: Yes.</p> <p>5 MR. MORRIS: Okay. Now let's go</p> <p>6 off the record, and we may just be done.</p> <p>7 MR. McDONALD: Okay.</p> <p>8 THE VIDEOGRAPHER: This ends</p> <p>9 unit 5. We're off the record at 12:51.</p> <p>10 (Pause in proceedings.)</p> <p>11 THE VIDEOGRAPHER: This begins</p> <p>12 unit 6. We're on the record at 12:56.</p> <p>13 MR. MORRIS: Okay. Just a couple</p> <p>14 of more questions I think. In light of</p> <p>15 the instructions that you've been given,</p> <p>16 I don't want to waste people's time</p> <p>17 here.</p> <p>18 BY MR. MORRIS:</p> <p>19 DIR Q. Can you tell me what relief</p> <p>20 Ascentra Holdings, Inc. is seeking against</p> <p>21 SPGK in the Cayman Islands?</p> <p>22 MR. McDONALD: The same objection.</p> <p>23 The same direction.</p> <p>24 Q. Are you going to follow counsel's</p> <p>25 advice?</p>
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<p>1 G. ROBINSON</p> <p>2 The same direction.</p> <p>3 Q. Are you going to follow counsel's</p> <p>4 advice?</p> <p>5 A. Yes.</p> <p>6 MR. MORRIS: Let's take one more</p> <p>7 short break.</p> <p>8 Hold it. Before we go off the</p> <p>9 record.</p> <p>10 Are you going to direct him not to</p> <p>11 answer any question that concerns any</p> <p>12 allegation or assertion that's set forth</p> <p>13 in the complaint?</p> <p>14 MR. McDONALD: Yes.</p> <p>15 MR. MORRIS: And if you are given</p> <p>16 those directions, do you intend to</p> <p>17 follow them?</p> <p>18 THE WITNESS: Yes.</p> <p>19 MR. MORRIS: Would you direct him</p> <p>20 not to answer any question relating to</p> <p>21 any allegation or contention set forth</p> <p>22 in the objection that was filed on</p> <p>23 behalf of Ascentra Holdings that was</p> <p>24 marked as one of the earlier exhibits?</p> <p>25 MR. McDONALD: Yes.</p>	<p>1 G. ROBINSON</p> <p>2 A. Yes.</p> <p>3 DIR Q. Are you seeking anything other than</p> <p>4 the recovery of money from SPGK?</p> <p>5 MR. McDONALD: The same objection.</p> <p>6 The same direction.</p> <p>7 Q. Are you going to follow counsel's</p> <p>8 advice?</p> <p>9 A. Yes.</p> <p>10 MR. MORRIS: I have no further</p> <p>11 questions. You know, subject to the</p> <p>12 reservation of rights that I made early</p> <p>13 on about either seeking a preclusion</p> <p>14 order or motion to compel. But I don't</p> <p>15 want to waste anybody's time here.</p> <p>16 So --</p> <p>17 MR. McDONALD: We appreciate that.</p> <p>18 MR. MORRIS: -- I'm done for the</p> <p>19 day.</p> <p>20 MR. McDONALD: Okay.</p> <p>21 THE VIDEOGRAPHER: This is the</p> <p>22 videographer.</p> <p>23 Will anyone be ordering the video?</p> <p>24 MR. McDONALD: No.</p> <p>25 MR. MORRIS: Yes, we will.</p>

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G. ROBINSON

THE VIDEOGRAPHER: Okay. This concludes today's proceedings. The total number of video units was 6. We're off the record at 12:58.

(Time noted: 12:58 p.m. EST)

GRAHAM ROBINSON

Sworn and subscribed to before me this _____ day of _____, 2024, in the jurisdiction aforesaid.

NOTARY PUBLIC

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1	DEPOSITION ERRATA SHEET	1	DEPOSITION ERRATA PAGE
2	Our Assignment No. J10806182	2	Page No. ____ Line No. ____ Change to: _____
	Case Caption: In re Ascentra Holdings, Inc.	3	_____
3		4	Reason for change: _____
	DECLARATION UNDER PENALTY OF PERJURY	5	Page No. ____ Line No. ____ Change to: _____
4	I declare under penalty of perjury that I have	6	_____
	read the entire transcript of my deposition taken in	7	Reason for change: _____
5	the above-captioned matter or the same has been read	8	Page No. ____ Line No. ____ Change to: _____
	to me, and the same is true and accurate, save and	9	_____
6	except for changes and/or corrections, if any, as	10	Reason for change: _____
	indicated by me on the DEPOSITION ERRATA SHEET	11	Page No. ____ Line No. ____ Change to: _____
7	hereof, with the understanding that I offer these	12	_____
	changes as if still under oath.	13	Reason for change: _____
8	Signed on the ____ day of _____	14	Page No. ____ Line No. ____ Change to: _____
	20____.	15	_____
9	_____	16	Reason for change: _____
	GRAHAM ROBINSON	17	Page No. ____ Line No. ____ Change to: _____
10		18	_____
	Subscribed and sworn to on the ____ day of	19	Reason for change: _____
12	_____ 20 ____ before me.	20	Page No. ____ Line No. ____ Change to: _____
13		21	_____
14		22	Reason for change: _____
15	_____	23	
16	Notary Public, in and for the State of	24	SIGNATURE: _____ DATE: _____
17	_____.	25	GRAHAM ROBINSON
18			
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1	DEPOSITION ERRATA PAGE
2	Page No. ____ Line No. ____ Change to: _____
3	_____
4	Reason for change: _____
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19	Reason for change: _____
20	Page No. ____ Line No. ____ Change to: _____
21	_____
22	Reason for change: _____
23	SIGNATURE: _____ DATE: _____
24	GRAHAM ROBINSON
25	

EXHIBIT C

1
2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

4 - - - - -x

5
6 In the Matter of:

7 ASCENTRA HOLDINGS, INC. AND GRAHAM Main Case No.
8 ROBINSON AND IVY CHUA, 21-11854-dsj
9 Debtor.

10
11 - - - - -x

12
13 United States Bankruptcy Court
14 One Bowling Green
15 New York, New York

16
17 December 21, 2023
18 2:29 PM

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21 B E F O R E:
22 HON. DAVID S. JONES
23 U.S. BANKRUPTCY JUDGE

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2 Case conference

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ASCENTRA HOLDINGS, INC. AND GRAHAM ROBINSON AND IVY CHUA

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1 P R O C E E D I N G S

2 THE CLERK: All rise.

3 THE COURT: Good afternoon, everybody. Please be
4 seated.

5 MR. PINTARELLI: Good afternoon.

6 MR. MCDONALD: Good afternoon, Your Honor.

7 THE COURT: Okay. So hello. We're here for a
8 conference in the Ascentra Holdings matter, and everyone looks
9 ready to go. I haven't heard anything since my ruling, so I'm
10 eager to hear what conversations have happened and what you all
11 are looking to accomplish first.

12 Who wants to lead us off? Oh, just state your
13 appearances, when you get up to speak, for your side. No, go
14 ahead. That's fine.

15 MR. PINTARELLI: So Your Honor, John Pintarelli,
16 Pillsbury Winthrop Shaw Pittman, on behalf of the foreign
17 representatives. I'm here with my colleague Hugh McDonald.

18 And Your Honor, so we're here because, in your
19 decision and order that you entered at ECF number 80, you
20 requested that we schedule a general case status conference.
21 I'll be honest, we probably should have reached out to
22 chambers. We weren't aware if you wanted a case conference
23 with regard to the issues as between Ascentra and SPGK or a
24 general --

25 THE COURT: Okay. Well --

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1 MR. PINTARELLI: -- overall conference with regard
2 to --

3 THE COURT: Really, I'll take both. I think there's
4 some events starting to move in the foreign main proceeding
5 that you can update me on. I'd be interested in that. But I
6 realized, when I reread my decision, I had a couple of
7 conclusions sentences.

8 MR. PINTARELLI: Yep.

9 THE COURT: One was meet and confer and figure out
10 next steps, and the other is, at a minimum, let's gather for a
11 conference in the latter half of December. I was assuming we
12 would touch on discovery issues during that, and then any other
13 general update is welcome.

14 MR. PINTARELLI: So and we will -- so what I'll do
15 is -- so we did have a meet-and-confer yesterday with counsel.

16 THE COURT: Um-hum.

17 MR. PINTARELLI: They did provide us with a revised
18 list of topics that was reduced or narrowed. But I will defer
19 to my colleague on issues related to the SPGK issues.

20 THE COURT: Okay.

21 MR. PINTARELLI: And Your Honor, if that's okay, then
22 what I'll do is I'll turn it over to --

23 THE COURT: Yeah, you can go in whichever sequence you
24 want. If there's anything you want to say, I would guess it
25 wouldn't take long, about just general foreign main proceeding

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1 status that you want to update me on, that's fine.

2 MR. PINTARELLI: Sure.

3 THE COURT: But there may not be. Whatever you want
4 to do.

5 MR. PINTARELLI: Well, I'll give you a general
6 overview of two things I have -- of both. What we've done,
7 because Your Honor referred to that you didn't -- that there
8 was not much going on in the Chapter 15.

9 THE COURT: Had not been. I know you've launched a --
10 whatever the right term is --

11 MR. PINTARELLI: So I'm going to discuss --

12 THE COURT: -- in Cayman law.

13 MR. PINTARELLI: I'm going to discuss what we've
14 actually done.

15 THE COURT: Yeah.

16 MR. PINTARELLI: So Your Honor, immediately after we
17 got main recognition back in 2020/'21, we served discovery
18 requests immediately upon Planet Payment which was the credit
19 card payment processor for the Ascentra group.

20 And it took us about six months to get those documents
21 in. In the interim, we served discovery requests on Ever
22 Innovation Inc, EII, which was basically a back office provider
23 for Ascentra and its affiliates.

24 And Your Honor, the result -- and that took us even
25 longer than the initial six months. And those document

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1 requests, along with two others that we've served so far on
2 Xsigo Systems and i-payout -- actually, to tell you the truth,
3 Your Honor, I don't even think we served one on Xsigo; they
4 just voluntarily turned over documents, certain documents.
5 Those all have to do with the liquidator's investigation of
6 potential claims. And the subpoenas that were served were
7 under 1521(a)(4), which was the additional assistance Your
8 Honor provided us in the recognition order.

9 And Your Honor, as a result of those discovery
10 requests and document requests, the liquidators have received
11 more than nine million pages worth of documents, not all of
12 them in English, as you can imagine, because a big chunk of
13 this business was out of Asia. They've been reviewing those
14 documents, and ultimately it resulted in the summons that was
15 filed against SPGK down in the Cayman Islands on October 11th.

16 And Your Honor, I just want to bring to your attention
17 that that writ was filed after the JOLs received sanction from
18 the presiding judge, Judge Justice Doyle, to actually bring and
19 file that writ of claim against SPGK. And SPGK's initial
20 defense to that summons is due to be filed tomorrow, is my
21 understanding.

22 And then, Your Honor, the other thing that the JOLs
23 have been preoccupied with is working on winding up Ascentra's
24 subsidiaries. And there's two of note. One of them is HEC
25 International, which is in official liquidation in the Cayman

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1 Islands. There was no Chapter 15 filed on that case. The JOLs
2 did make the determination, the initial determination, that
3 that is a solvent liquidation. And in that case, the
4 liquidators, on behalf of Ascentra, have been embroiled in
5 litigation with SPGK in that case as well as a purported
6 creditor. And the JOLs and Ascentra prevailed on the initial
7 litigation, and that is currently on appeal to the appellate
8 court in the Cayman Islands.

9 The second thing that the JOLs have been doing is
10 winding up a subsidiary of HEC International, iHealthSciences
11 (ph.), which is a Delaware company.

12 And then finally, Your Honor, more recently, the JOLs
13 have also negotiated the escrow of money, disputed monies that
14 are here in the US. And the other party that is laying claim
15 to those funds, or laying claim to asserting a claim against
16 Ascentra, has filed proofs of debt in the Cayman Islands for
17 the same amount of the funds that are being held.

18 And quite honestly, Your Honor, I'm only bringing this
19 up to you today because I only became aware of these proofs of
20 debt this morning when I was speaking with Graham Robinson in
21 preparation for the hearing today. And basically, the JOLs and
22 their counsel are in discussions with the other party and their
23 Cayman counsel.

24 And I can disclose the name of the party because it's
25 a U.S. person. He's a former executive of the Ascentra group.

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1 His name is Ted Sanders (ph.). And there is no presumption of
2 confidentiality with respect to a U.S. citizen. And they --

3 THE COURT: As a matter of Cayman law, right?

4 MR. PINTARELLI: As a matter of Cayman law. And these
5 claims were only recently lodged in the Cayman Islands. We
6 knew that there was a dispute. The money was put into an
7 escrow account. And the reason why it was put into an escrow
8 account, and we haven't come to Your Honor to transfer those
9 monies down to the Cayman Islands, is because there are certain
10 potential tax issues. So we wanted to walk through all those
11 issues first and adjudicate the claims. And there's no harm in
12 keeping those funds --

13 THE COURT: Right.

14 MR. PINTARELLI: -- in the U.S. for now. So that's
15 where we're at in the main proceeding and in the Chapter 15.

16 THE COURT: Okay. Thanks.

17 MR. PINTARELLI: Thank you.

18 THE COURT: If you want to just turn it over to --

19 MR. PINTARELLI: And I'll answer any questions you
20 have.

21 THE COURT: No, I don't. That was a helpful recap,
22 and I think it covered the topics I could think of asking about
23 and then some others as well. So thank you.

24 MR. PINTARELLI: Thank you. I'll turn it over to --

25 THE COURT: And we can turn it over to Mr. McDonald, I

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1 guess, for the discovery-focused conversation.

2 MR. PINTARELLI: Thank you.

3 MR. MCDONALD: Good afternoon, Your Honor.

4 THE COURT: Good afternoon.

5 MR. MCDONALD: For the record, Hugh McDonald,
6 Pillsbury Winthrop Shaw Pittman, on behalf of the foreign
7 representatives.

8 First, Your Honor, I just want to say it's great to be
9 back in front of you live. It's so much nicer than being on a
10 little Zoom box.

11 THE COURT: It is. It is. Yes, I started in February
12 '21, so I got sworn into this job from my living room, and I
13 didn't see any humans for quite a while. It's nice to be back.
14 Anyway, thanks.

15 MR. MCDONALD: But is this Judge Lane's old courtroom?

16 THE COURT: Yes.

17 MR. MCDONALD: I'm trying to remember. It is? Okay.
18 It's been awhile.

19 THE COURT: And before that -- you can't read it from
20 there, but I'm holding up a stapler that says Judge Beatty
21 courtroom. So it's a historic venue.

22 MR. MCDONALD: Just going way back in the day, Your
23 Honor, up on seven here, there weren't any courtrooms and that
24 was back in the --

25 THE COURT: Yeah, they kind of carved this out.

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1 MR. MCDONALD: Carved it out. In fact, Frank Conrad,
2 who came down from Vermont, he and his clerks actually built a
3 bench in one of the rooms because he was so sick of being
4 shuttled around from all those different courtrooms.

5 THE COURT: Oh, that's funny.

6 MR. MCDONALD: It is funny.

7 THE COURT: It seems like a very Vermonter thing to
8 do.

9 Okay. Anyway, let's get down to focus on the --

10 MR. MCDONALD: Sure.

11 THE COURT: -- issues, though. Go ahead.

12 MR. MCDONALD: Thank you, Your Honor. Your Honor, we
13 did have a meet-and-confer, as Mr. Pintarelli alluded to, and
14 they have pared down the list of topics and they've added some.
15 So I want to deal with that. And then there's some other
16 matters we want to discuss with the Court.

17 First of all, Your Honor, at least certain of the
18 topics are still a bit broad. Specifically, there's a number
19 three topic which is a bit broader than what was in the
20 subpoena. And one of the things is to talk -- they want
21 testimony about any reasons why the liquidators have not paid
22 in full a creditor's claim. And so the fact that a creditor
23 hasn't been paid is fine; we can discuss that. I think that's
24 okay. And the other topics, in and of themselves, are
25 generally okay, but I'll get into that a little bit more.

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1 The other thing too is some of the topics sort of lack
2 a fundamental understanding of Cayman law, and we discussed
3 that with counsel. For example, they asked for appearances by
4 creditors. Though in the U.S., when you have a proceeding, a
5 creditor can file a notice of appearance and therefore get
6 notice of what's going on. It's different in the Cayman
7 Islands.

8 A creditor can come into the courtroom and make an
9 application for something. But that is very different than
10 filing an appearance, because I think, as we've noted in our
11 papers, access to the court files in Cayman are restricted to
12 just contributories and creditors themselves.

13 So simply showing up and making a demand doesn't
14 actually get you access unless you can prove you're a creditor
15 or a contributory. So there's no real concept of appearance.
16 So we're going to work with them to see kind of what they're
17 really getting at here.

18 THE COURT: Okay.

19 MR. MCDONALD: I think generally what they're
20 generally trying to find out --

21 THE COURT: So that sentence tells me -- let me just
22 step back more broadly. Is it fair to say -- I think you said
23 the meet-and-confer was yesterday.

24 MR. MCDONALD: Yeah.

25 THE COURT: And you're describing, sort of, ongoing

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1 conversations is my takeaway; is that right?

2 MR. MCDONALD: That's right, Your Honor. And I think
3 we need to pare them down a little bit. What I'd like to talk
4 about, though, Your Honor, specifically, is they added four
5 topics that were not in the original 30(b)(6) subpoena.

6 THE COURT: Um-hum.

7 MR. MCDONALD: And there are --

8 THE COURT: And I'm sorry, let me -- before you do
9 that, let me just -- help me understand where this is going.
10 This helps me frame my thoughts as I listen to you.

11 MR. MCDONALD: Yes.

12 THE COURT: So are you going to be asking me -- you're
13 basically going to --

14 MR. MCDONALD: I think --

15 THE COURT: You want to emerge with an update given to
16 me, plus maybe information that there are ongoing discussions
17 so stay tuned, plus maybe get some interim rulings and guidance
18 on what you see as problematic topics?

19 MR. MCDONALD: Exactly that, Your Honor.

20 THE COURT: Okay. Fair. So I'm with you. Go ahead.

21 MR. MCDONALD: And we're still willing to talk to them
22 about trying to figure out what topics, because it seems what
23 they're trying to get to is, one, is there still a certificate
24 of solvency on file? The answer is yes. We've stated it in
25 our papers. If that changes, Your Honor, under Cayman law, the

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1 liquidators are required to file a change -- a notice,
2 certificate of change, either to a doubtful solvency or an
3 insolvency.

4 THE COURT: And is that publicly available?

5 MR. MCDONALD: That would be publicly available, Your
6 Honor.

7 MR. PINTARELLI: I'm sorry, Your Honor, to interrupt.
8 Certainly creditors and contributories can get it on the
9 docket. SPGK might be entitled to it through its owner --

10 THE COURT: Right.

11 MR. PINTARELLI: -- who I'll colloquially referred to
12 as Luke, if that's okay with counsel, because as a former
13 director of Ascentra --

14 THE COURT: Right.

15 MR. PINTARELLI: -- or as a director of Ascentra, he
16 has access to certain files in the court record.

17 THE COURT: Right. I understand you need a certain
18 status --

19 MR. PINTARELLI: Yes.

20 THE COURT: -- with respect to the --

21 MR. PINTARELLI: Yes.

22 THE COURT: -- I guess, whatever the debtor or
23 liquidating entity. And you're saying the principal has it.

24 MR. PINTARELLI: I will represent to you, Your Honor,
25 if we change it, we will send it to SPGK and notify them.

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1 THE COURT: Yeah, that's helpful. I mean, one way or
2 another, I want --

3 MR. PINTARELLI: Yeah.

4 THE COURT: -- obviously SPGK to have that
5 information.

6 MR. MCDONALD: But also more importantly, Your
7 Honor --

8 THE COURT: And promptly.

9 MR. MCDONALD: -- under Chapter 15, we would have to
10 notify the Court of a change --

11 THE COURT: Right.

12 MR. MCDONALD: -- in the proceeding. So the Court
13 would become aware of it. We would obviously have to let you
14 know, as well.

15 THE COURT: I said that word "promptly" softly. That
16 matters. And I want these folks to not be in the dark for any
17 appreciable time.

18 MR. MCDONALD: I mean, right now, Your Honor, there
19 has been a change. So with respect to the other topics, I
20 think what they're really trying to get to is whether or not
21 there were creditors, are currently creditors, and whether or
22 not proofs of debt have been filed.

23 I think, as Mr. Pintarelli informed the Court, we have
24 had proofs of debt filed. As we stated in our last status
25 report to the Court, the liquidators have solicited proofs of

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1 debt from certain creditors, but that's generally where things
2 stand with regard to creditor status and the Caymans.

3 Obviously, much of the determination of proof of
4 debt -- I mean, of solvency, Your Honor, revolves around
5 actually getting back all of the assets of Ascentra, which is
6 one of the underlying purposes of this Chapter 15 case, is to
7 investigate and recover assets here.

8 THE COURT: Okay.

9 MR. MCDONALD: Your Honor, I'd like to talk -- so
10 again, status on that, we will continue to work with them on
11 the topics to get them in line. If we do have an impasse on
12 them, obviously we'll alert chambers and try and work with
13 that.

14 THE COURT: Okay. That's fine. I don't want to just
15 blurt things out that may complicate your conversation, so I'll
16 just absorb what you're telling me for now, and then I'll hear
17 from the other side and we'll see what we can do.

18 MR. MCDONALD: Yeah. And we commit to the other side
19 to continuing to work on those topics.

20 THE COURT: Okay.

21 MR. MCDONALD: There were four topics added, Your
22 Honor, that were not in the 30(b)(6) subpoena and were not the
23 subject of Your Honor's decision. And they relate to facts --

24 THE COURT: I'm sorry, what?

25 MR. MCDONALD: -- facts and documents concerning the

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1 underlying claim against SPGK to ownership of the Planet
2 Payment funds. And they couch it as the success on the merits.
3 But as the Court is aware, there is now a pending proceeding --

4 THE COURT: Right.

5 MR. MCDONALD: -- in Cayman over those very funds that
6 has been sanctioned by the Cayman court to be commenced by the
7 liquidators.

8 So the other issue with respect to it, Your Honor, is
9 Mr. Robinson is a liquidator, an official liquidator. He is a
10 court-appointed officer, and he functions very much as a
11 trustee. He's not a fact witness, would not be a fact witness
12 in these proceedings.

13 What Mr. Robinson has done, with the assistance of his
14 counsel, both Cayman and U.S. counsel, is to obtain as many
15 records as possible and then figure out what claims exist, like
16 any trustee would in America.

17 Whatever facts would support a claim, or whatever
18 documents are going to be relied upon presently, are set forth
19 in two documents, the claim itself that has been filed in the
20 Cayman Islands, which Mr. Pintarelli alluded to; their defenses
21 are due tomorrow. And so obviously they are reviewing those
22 facts and will be responding.

23 And the other is, Your Honor, in our objection to the
24 motion to lift the restraint. And Your Honor can see from our
25 objection, much of what we are relying upon are documents from

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1 SPGK, or that we've gotten from either EEI or from Planet
2 Payment, and the testimony of Mr. Yoshida. Mr. Robinson is not
3 a fact witness. He's not relied upon. He has not submitted a
4 declaration in connection with those proceedings.

5 THE COURT: Can I --

6 MR. MCDONALD: So --

7 THE COURT: You told me you were going to tell me
8 about four added topics, and --

9 MR. MCDONALD: So it's --

10 THE COURT: -- then the first was facts about the
11 underlying claim versus SPGK, and then you segued into talking
12 to me about Mr. Robinson's status and sources of documents.

13 MR. MCDONALD: So Your Honor --

14 THE COURT: So how does that fit?

15 MR. MCDONALD: -- yeah, let me clarify that, because
16 they broke out the topics because we've asserted both -- we've
17 asserted claims based on contract and equity.

18 THE COURT: Um-hum.

19 MR. MCDONALD: And so they wanted all facts to support
20 a claim for contract or documents to support a claim for breach
21 of the contract claim. And then the same thing for the
22 equitable claims. Okay.

23 THE COURT: Is that two topics?

24 MR. MCDONALD: Four all together, because it's two for
25 contracts, two for --

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1 THE COURT: Okay. Two by two, okay.

2 MR. MCDONALD: So it's documents --

3 THE COURT: So that's the full list of topics.

4 MR. MCDONALD: Right.

5 THE COURT: I've got it. I'm going to say it right
6 back to you to make sure I actually am correct that I have it.
7 So you've got two topics or sets of inquiries regarding seeking
8 information supporting contract-based claims, and two added
9 topics -- what you've just added topics seeking information
10 about claims based on equity, right?

11 MR. MCDONALD: That is correct.

12 THE COURT: Your adversary is standing, which may --

13 MR. MORRIS: Just, if it would be helpful, we can give
14 you the document, if we're going to go through this one by one.

15 THE COURT: Oh, sure.

16 MR. MORRIS: It's two pages long.

17 THE COURT: Am I going to end up doing that or --

18 MR. MCDONALD: I'd rather just handle it right now for
19 just --

20 THE COURT: Okay. You know what? Let's take --

21 MR. MCDONALD: It doesn't change anything.

22 THE COURT: I'll hear the overview. You can hand it
23 up to me --

24 MR. MCDONALD: Yeah, there shouldn't be any
25 guessing --

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1 THE COURT: -- when you're up, which will be in a
2 minute.

3 MR. MCDONALD: -- to what it is we're asking for.

4 THE COURT: No, but I think that clarification --

5 MR. MCDONALD: It's right here.

6 THE COURT: I think that -- thank you. I think that
7 clarification does me for now. And then you can -- so now I
8 know that overview, and you can just carry on telling me --
9 making your point about the -- I think you were talking about
10 the sources of information on which you're relying, which were
11 documents from sources other than your client plus testimony of
12 Mr. Yoshida, right?

13 MR. MCDONALD: That's correct, Your Honor.

14 THE COURT: Okay.

15 MR. MCDONALD: And any documents, any facts, anything
16 else that was considered, was done so under the attorney-client
17 privilege or as part of the attorney work product. And so we
18 could have Mr. Robinson read the statement of claim, which are
19 the facts he's relying upon in the Cayman Islands. I don't see
20 why we would need to waste everyone's time doing that because
21 that makes no sense.

22 THE COURT: Right. But so let me ask --

23 MR. MCDONALD: And to inquire beyond that is going to
24 immediately go into the attorney-client privilege or work
25 product.

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1 THE COURT: Right.

2 MR. MCDONALD: Just like any trustee. In the United
3 States, Your Honor, a trustee commences an action. The trustee
4 is not testifying about the factual underpinnings of the
5 underlying claim. And that's what they're effectively asking
6 him to do here.

7 THE COURT: Okay. Well, look, what I'm envisioning --
8 first off, my ruling involved a lot of work just to answer what
9 I ultimately decided was really a simple question put to me,
10 which was, is there a blanket ban on a deposition of this
11 person? And I held no. And that left open a wide array of
12 issues. Thus, the instruction to meet and confer. It seems
13 like the meet and confer process is ongoing.

14 You're starting to pre-argue for me why, I guess, I
15 should be trimming scope. I'm not sure if that's ripe or not,
16 given ongoing discussions. But we can -- I'll let you just --
17 I'm hoping that what you're telling me -- I'm happy to take all
18 background, and then I'm just trying to figure out where we're
19 going, which I think is going to be urging me to push back and
20 cabin things, but we'll see.

21 MR. MCDONALD: Well, Your Honor, your decision only
22 related to the specific topics that were set forth in the
23 30(b)(6).

24 THE COURT: Right, so you're wanting me to --

25 MR. MCDONALD: And those were the original --

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1 THE COURT: -- address the topics now.

2 MR. MCDONALD: So there are new topics they want to go
3 into. These four topics are new. They were not in the
4 30(b)(6).

5 THE COURT: Right. I'll just say I didn't rule on any
6 particular topic, even of the prior topics. I just said you --

7 MR. MCDONALD: I just wanted to be clear. We
8 weren't --

9 THE COURT: Right.

10 MR. MCDONALD: So the original 30(b)(6) related to
11 what I would call recognition issues.

12 THE COURT: Right.

13 MR. MCDONALD: And didn't really get into the
14 termination of the restraint. And these are topics to get into
15 the restraint issue.

16 THE COURT: Okay.

17 MR. MCDONALD: Despite there's the pending proceeding
18 in Cayman on the topic.

19 Your Honor, there's one other matter, before turning
20 over the podium, that we wanted to discuss with the Court, in
21 addition to the issues with regard to the discovery. Your
22 Honor, as you noted in your opinion, it appears that SPGK is
23 shifting its argument.

24 So its original motion to terminate the recognition
25 was based upon an accusation that there was no basis for

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1 recognition at the time the Court granted it. And they went
2 beyond that. They actually said that parties misled the Court.
3 And as you know, we take great offense to those statements. We
4 don't think they're at all correct. We have never and will
5 never mislead this Court.

6 So as you noted in your opinion, Your Honor, they seem
7 to be shifting to an argument that the bases for recognition
8 have ceased to exist, which is the other alternative basis to
9 terminate recognition. And I think Your Honor noted that, in
10 the event that they come up with a new argument or propose new
11 arguments in their reply, the foreign representatives would be
12 given the opportunity to submit a surreply.

13 Now, Your Honor, there have been some intervening
14 events, unrelated to this case but related to this case, that
15 we wanted to bring to the Court's attention. If there is a new
16 argument in there, prior to filing a surreply, we would like to
17 reserve the right to seek to depose Mr. Andrew Johnstone of the
18 Harneys firm. In the event there are no new arguments, we do
19 reserve the right to cross-examine him at the ultimate hearing.

20 Now, why Mr. Johnstone? Why Mr. Johnstone? Mr.
21 Johnstone is with the Harneys firm. The Harneys firm in Cayman
22 Islands represents SPGK. It represents them in pending
23 litigation as well. But Mr. Johnstone has also submitted to
24 this Court two declarations in support of the relief that SPGK
25 is seeking.

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1 Now, in the Pioneer Merger case, Your Honor, that is
2 also pending in front of Your Honor, one of Mr. Johnstone's
3 partners, a Ben Hobden, has submitted a declaration to this
4 Court in support of recognition of that proceeding.

5 The Pioneer Merger, like Ascentra, is an official
6 liquidation. It is a solid official liquidation. And Mr.
7 Hobden's declaration, at the Harneys firm, contains many of the
8 same statements that SPGK says misled this Court.

9 For example, he says that creditors will be treated
10 fairly and equally, on a pari passu basis, and that it's a
11 collective proceeding in Cayman, quite the contrary of what has
12 been put forth by SPGK in these proceedings, and a bit
13 troubling that the same firm would be taking the opposite
14 position.

15 THE COURT: So sorry, so are you wanting to depose a
16 lawyer who represents SPGK in Cayman, and the basis you're
17 advancing is that a partner of that lawyer in another case has
18 taken inconsistent positions?

19 MR. MCDONALD: Well, Mr. Johnstone is lead counsel to
20 Pioneer Merger, Your Honor. He just didn't submit the
21 declaration. He had Mr. Hobden submit the declaration. But in
22 the Cayman proceeding, Mr. Johnstone is Pioneer's lead counsel.

23 THE COURT: Okay. Well, look, I think you're trying
24 to -- I mean, my pragmatic sense, and my sense that focuses on
25 what's immediately before me, says you're raising this in the

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1 context of saying, if there's new topics raised in reply,
2 you're reserving a right to seek leave to file a surreply. And
3 as part of that, you may well want to depose the witness who
4 is -- is it Mr. Gladstone?

5 MR. MCDONALD: Johnstone.

6 THE COURT: Johnstone. I --

7 MR. MCDONALD: Andrew Johnstone. Who I can give you
8 copies --

9 THE COURT: Okay.

10 MR. MCDONALD: -- of the declarations --

11 THE COURT: Thanks.

12 MR. MCDONALD: -- he has submitted here, Your Honor.

13 THE COURT: No, it's fine.

14 MR. MCDONALD: All right.

15 THE COURT: So you want to -- look, it seems to me
16 those are all issues I can and should decide once the reply is
17 filed, and you can see if your fears and expectations are
18 realized, and then you can talk, and maybe you'll have
19 agreement and maybe you won't. And if necessary, you can come
20 back to me then. I mean, I think you probably -- I'm going to
21 guess you want to just plant the seed now, and that's fine.
22 Consider the message received. But I don't think I need to do
23 anything at this point.

24 MR. MCDONALD: Well, Your Honor, when we read Mr.
25 Hobden's declaration -- and I have a copy of it, if the Court

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1 wishes a copy of it, or if the Court wishes just to look in the
2 file for it. It's disturbing to us that the Harneys firm would
3 be advocating, on behalf of SPGK, a completely opposite --

4 THE COURT: Right.

5 MR. MCDONALD: -- conclusion in front of this Court
6 about the nature of a Cayman proceeding.

7 THE COURT: I've got it. Well, look, I think the fact
8 that you're aware of it and raising it tells me that I'll be
9 reading about this in briefing one way or another. And we'll
10 see if that requires a deposition or not, I think.

11 MR. MCDONALD: I think it might go beyond that, Your
12 Honor. I mean, we're getting into their -- so by the way,
13 their expert, supposed expert, Ms. Pearson, is a former Harneys
14 partner --

15 THE COURT: Okay.

16 MR. MCDONALD: -- who actually -- so this is very
17 much, from our perspective, a demonstration of bad faith in the
18 bringing of this motion to terminate the recognition, when
19 their own firm, their own Cayman counsel, is taking opposite
20 positions in front of Your Honor, and urging opposite positions
21 in front of Your Honor, on the very same issue they're asking
22 you to decide. And so --

23 THE COURT: Okay. Well, look, let me -- I think
24 I'll -- I mean, I'll just stick to my I-should-take-it-as-it-
25 comes reaction. So I think you're spelling out issues and

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1 problems you see, and concerns you've got, and I think they
2 all -- I think that's for at least another step down the road
3 after we resolve immediate discovery processes, followed by the
4 filing of a reply. And sooner or later, I would think we might
5 want to get to an actual hearing on the motion that's been
6 kicking around for a long time. Okay?

7 MR. MCDONALD: Okay.

8 THE COURT: But I note your concerns. So do you have
9 any -- are you asking me to make any particular --

10 MR. MCDONALD: With respect to --

11 THE COURT: -- narrowing rulings --

12 MR. MCDONALD: Yes, Your --

13 THE COURT: -- quashing rulings on the spot today?

14 MR. MCDONALD: It would be helpful. I mean, so the
15 additional topics with respect to the underlying claim against
16 SPGK we don't think are appropriate. And we think they have
17 the facts. We've cited to the documents. And there's nothing
18 more. Anything else beyond that, as I said, is going to be
19 privileged. And I think it's a collective waste of our time
20 and energy for them to be able to go into that area.

21 More importantly, Your Honor, there is a proceeding
22 pending in the Cayman Islands. Whatever discovery they want to
23 take with respect to the underlying merits, that's for that
24 Court to decide. Here, what this Court has to decide --
25 because if Your Honor remembers, at the very beginning of this

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1 case, when you granted recognition and granted the restraint,
2 you looked at the restraint from two perspectives. One is as,
3 just generally, equitably, as sitting as a judge in a Chapter
4 15 proceeding and an ancillary proceeding, is it appropriate to
5 grant that restraint? And you said yes.

6 You said, but moreover, given the fact that SPGK, at
7 the time, even conceded there would be irreparable harm if the
8 funds left the country, and now have affirmed to us that, if
9 you lift the restraint they are leaving the country, coupled
10 with the pendency of the action down in Cayman, I think we have
11 more than adequately demonstrated that there is irreparable
12 harm here in the event, and there is --

13 THE COURT: All right. Well, look, you're -- I
14 mean --

15 MR. MCDONALD: -- dispute over the funds. I don't
16 think it's appropriate for them to be able to then take
17 discovery into that.

18 THE COURT: All right. Let me hear from your
19 adversary. I mean, I'll just say, I think a lot of this is
20 really foreshadowing. And the most important procedural thing
21 I've heard is there's an ongoing meet-and-confer process
22 underway, which I think should be pursued and brought to an end
23 point so that the case can actually proceed.

24 But we'll see. Let's hear from your adversary.

25 MR. MCDONALD: Thank you, Your Honor.

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1 THE COURT: Yep.

2 MR. MORRIS: Good afternoon, Your Honor.

3 THE COURT: Good afternoon.

4 MR. MORRIS: John Morris, Pachulski Stang Ziehl &
5 Jones, for SPGK.

6 I guess I'll address the issues in the order that they
7 have been presented. We did, in fact, after some very lengthy
8 briefing, consider very carefully Your Honor's ruling. The
9 fact of the matter is the issue of the restraint on the funds,
10 and the burden that Ascentra has to prove that they're likely
11 to succeed on the merits, was fully addressed in the papers
12 that were submitted to the Court.

13 While certainly at the time the 30(b)(6) topics were
14 issued back in August they weren't included, this particular
15 issue concerning discovery on likelihood of success of the
16 merits was front and center, and it was part and parcel of
17 everything that we told the Court. I think it's adequately
18 addressed in your Court's decision. I don't think there's any
19 surprise that we're seeking discovery on the area, since it's a
20 topic that is an element of the charge.

21 And we understand that Mr. Robinson may not have
22 personal knowledge. We're not here serving an individual
23 subpoena. We're here serving a 30(b)(6) subpoena. And Mr.
24 Robinson may or may not be the witness they want to call. It
25 doesn't matter who it is. It doesn't matter if the person has

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1 relevant knowledge. What we're entitled to inquire is what
2 facts are going to be presented to this Court to prove a
3 likelihood of success on the merits, both as to contract and as
4 to equity. What documents is a Ascentra going to rely upon to
5 try to meet that burden? And what I --

6 THE COURT: Isn't that 30(b)(6) an oral testimonial
7 version of a contention interrogatory?

8 MR. MORRIS: Perhaps? I mean, whether we --

9 THE COURT: Is that factual in nature? I mean, and
10 how is that not privileged? How is that not work product to
11 ask -- you're asking a principal to explain what totality of
12 evidence an adversary party is going to be --

13 MR. MORRIS: I'm not asking --

14 THE COURT: -- present through counsel.

15 MR. MORRIS: I'm not asking for any work product. I'm
16 not asking for any attorney-client privileged communications.
17 I am asking for facts and documents, neither of which are ever
18 privileged. And I have a right to know, my client has a right
19 to know, before we have a trial on the merits here, what are
20 the facts you're relying upon? What documents are you relying
21 upon? This isn't trial by ambush. I don't have to wait until
22 a hearing to understand what the evidence is that the other
23 side believes they have against me.

24 They did the same thing with my client. They asked
25 them up, down, and sideways. You hear them say, over and over

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1 again, that they're relying on the deposition of my client.
2 You know what they asked him? What facts; they asked him about
3 facts. They asked him about contentions. What did you do?
4 What did you say? What did you hear? He's a fact witness.
5 But we're really just asking for the same thing now from our
6 adversary, right, in the form of a 30(b)(6) witness, because
7 they don't have a fact witness, right? That's not my fault.
8 That's not my client's fault. If we had a fact witness, we'd
9 probably do that too.

10 But I don't see how they get to just hide the ball
11 until we get to trial. And that's really what they're trying
12 to do. And they'll say, no, it's referred to in the complaint.
13 Well, two things.

14 Number one, then they will be precluded from offering
15 any factual evidence that's not in the complaint. They will be
16 precluded from relying on any document that's not in the
17 complaint. That's one part, right? Because they're saying,
18 oh, just look at the complaint because that says it all. Well,
19 if it says it all, it better say all of it. And we shouldn't
20 be forced to find out at trial that there's stuff not in the
21 complaint that they're now relying upon. So that's one concern
22 that I have.

23 The other concern is, don't I get to just challenge
24 any of these facts in a deposition? You do that all the time,
25 right? Somebody sues somebody else, and the first thing you do

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1 when you take -- when you're a defendant, and you take the
2 deposition of the plaintiff, is you put the complaint in front
3 of them and say let me test your allegations. How are you
4 going to succeed here? What's the basis for your claim?

5 And we're doing that now, not in the context of the
6 merits of the claim, but in the context of likelihood of
7 success on the merits, because that's the burden of proof.
8 That's --

9 THE COURT: On the --

10 MR. MCDONALD: -- the element here, right? On the
11 restraint, right? How are you going to succeed in prevailing
12 on your claim against SPGK? Why are you likely to succeed?
13 And they can put in their complaint that today is Sunday, but
14 don't I have the right to ask him, I understand that that's
15 your allegation, but are you aware that today is the day after
16 Wednesday? What's the basis for your allegation that today is
17 Sunday? Don't I have the right to test the allegations? Don't
18 I have the right to find out whether the facts that they're
19 alleging are credible, whether they're based in fact?

20 That's what we're getting at, Your Honor. And I think
21 that this is really pretty elementary at the end of the day.
22 It's helpful to have the complaint, but I don't see why --
23 right, this is not a motion to dismiss. The Court isn't going
24 to be accepting the allegations as true for purposes of
25 deciding our motion to lift the restraint on the cash. Right?

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1 Not a motion to dismiss, doesn't have to be accepted as true.
2 So I just want the opportunity to test the allegations that
3 they're making against my client to see --

4 THE COURT: Right. I --

5 MR. MORRIS: -- whether or not they can meet their
6 burden of proof.

7 THE COURT: Look, I think -- I mean, is Mr. McDonald
8 right, just procedurally, that you had a meet-and-confer
9 conversation yesterday and you're going to have further
10 conversations?

11 MR. MORRIS: We did. We'd be delighted to. I would
12 really love to avoid more letter writing and --

13 THE COURT: Right. I mean --

14 MR. MORRIS: -- and motion practice.

15 THE COURT: Because I mean, the way our local rules
16 work, and logic tells me I should let that process play out
17 some before making definitive rulings.

18 Let me just say, I will tell you, I think -- I mean,
19 I've ruled there's not a categorical bar on a deposition here,
20 and you're entitled to take one. But I've also noted that
21 there's a number of, I think, valid and fair objections to at
22 least the way you've gone about that. And that's the process
23 you're going on and discussing.

24 I will say wording questions to a 30(b)(6) witness
25 about tell me all of your contentions in the upcoming case,

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1 trial, hearing, and the basis for that, is an uncomfortable
2 formulation to me. I would let you develop it if you want to
3 pursue it that way. I think more commonly what I see, and what
4 I think avoids a possible real privilege and work product
5 leaking back out through a client, is if you just ask about the
6 facts and issues.

7 MR. MORRIS: Exactly. That's all I intend --

8 THE COURT: What are the facts --

9 MR. MORRIS: -- to do.

10 THE COURT: Okay. So that's fine.

11 MR. MORRIS: That's exactly what I intend to do.

12 THE COURT: So your wording before got me --

13 MR. MORRIS: Yeah.

14 THE COURT: -- a little flummoxed about how we were
15 framing your questioning. But if you're pursuing factual
16 questions, then let's let you figure out --

17 MR. MORRIS: Right.

18 THE COURT: -- what the topics are. I will say, if
19 it's defined as tell me why you're going to win your separate
20 lawsuit pending in the Cayman Islands --

21 MR. MORRIS: Yeah.

22 THE COURT: -- that doesn't sound too --

23 MR. MORRIS: I would not be doing that.

24 THE COURT: Yeah, that that sounds privilege
25 invasive --

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1 MR. MORRIS: Yep.

2 THE COURT: -- to me, subject to your right to argue
3 otherwise, because we're here with no new written submissions.

4 MR. MORRIS: Right.

5 THE COURT: Okay. So what would you like to emerge
6 with today?

7 MR. MORRIS: And so I just -- I do want to give the
8 Court comfort that when the Court expressed -- I'll even use
9 the word some concern over the scope of the topics that we had
10 before, those didn't relate to the restraint. Those related
11 only to the Cayman proceeding.

12 And I appreciate counsel is really not taking issue
13 with the reformulation. I think there's been an acknowledgment
14 that what we did is curtail those considerably. There may be
15 some tweaks that we have to work out, and I'm happy to do that.

16 So I think we should -- I think, if we could, we'll
17 take the balance of the year, maybe have another phone call,
18 maybe exchange writings. However we do -- we'll see if we can
19 get to an agreement on acceptable 30(b)(6) topics by the end of
20 the year. And if we can't, well, I guess we'll have to come
21 back to the Court for a decision.

22 THE COURT: That's great. I mean, I would say keep
23 working.

24 MR. MORRIS: Yeah.

25 THE COURT: I'll tell you --

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1 MR. MORRIS: Yep.

2 THE COURT: -- I'm going to be away a little bit. The
3 staff's going to be away.

4 MR. MORRIS: Yep.

5 THE COURT: My next hearing date is January 3. Today
6 is December --

7 MR. MORRIS: Great.

8 THE COURT: -- 21st. I could arrange to see you
9 earlier, but I don't think you need me. And I don't want to.
10 I see you're shaking your head no. That's fine. But so
11 anytime on the far side of January 3, if a meet-and-confer
12 process is played out, and you want to see me and you make
13 written requests, I stand ready. And I would want written
14 requests before you get together so that I can come in knowing
15 what the issues are. Hopefully they'll be sharpened by then.

16 MR. MORRIS: Sure.

17 THE COURT: In a really ideal world, you'll reach
18 agreement.

19 MR. MORRIS: Right.

20 THE COURT: And then you won't have to come in.

21 MR. MORRIS: Right. So --

22 THE COURT: I will say, I commented, and you looked
23 receptive and appreciative when I commented that I would think
24 the movant would want to get their long-pending motion actually
25 heard. So we have to get through this process.

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1 MR. MORRIS: We do.

2 THE COURT: And so both sides can influence that,
3 including on the movant's side, by being reasonable and
4 constructive and fair minded. And then we'll hopefully sharpen
5 the issues and get it heard, get it argued.

6 MR. MORRIS: Okay. All right. And I appreciate that,
7 Your Honor. I just want to move on then to the other issue
8 just because --

9 THE COURT: Sure.

10 MR. MORRIS: -- I can't let it go unanswered, about
11 Harneys and the deeply troubling -- the allegedly deeply
12 troubling concept of a law firm representing multiple clients
13 whose interests might not be completely aligned.

14 It happens. I'll just say it happens, and I don't
15 really care. What I do hope is that we avoid a frolic and
16 detour that requires me to now learn what's happening in other
17 unrelated cases. At the end of the day, law firms represent
18 multiple clients. And if the issue of law has not been
19 settled, I think we have an ethical duty to advocate for our
20 clients vigorously and zealously.

21 And the issue before the Court that we're pressing
22 here is that a solvent entity who is engaged in a foreign
23 proceeding, that doesn't really have any role for creditors and
24 doesn't benefit creditors, that that's an issue that hasn't
25 been decided. It's why it's before this Court right now.

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1 And I find nothing unusual, offensive, troubling,
2 unethical about a law firm representing multiple clients who
3 may want to take different positions. And I just really will
4 resist very firmly --

5 THE COURT: Okay.

6 MR. MORRIS: -- any attempt to take a deposition --

7 THE COURT: That's --

8 MR. MORRIS: -- on that issue.

9 THE COURT: I think you've each articulated --

10 MR. MORRIS: Yeah.

11 THE COURT: -- the positions that people articulate in
12 this situation. And I think I can just --

13 MR. MORRIS: Yep.

14 THE COURT: I mean, I'd like to sort of leave it there
15 and then --

16 MR. MORRIS: Me too.

17 THE COURT: -- see where we are at an appropriate
18 time, which I think is not yet. But when you finish up, I'll
19 give Mr. McDonald an opportunity to say anything if he
20 absolutely feels the need. But otherwise we can leave it at
21 that.

22 Okay. So I asked, and I didn't really emerge with a
23 clear answer of what exactly you want me to do today. Maybe
24 the answer is nothing --

25 MR. MORRIS: Nothing.

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1 THE COURT: -- and it's just a conference and an
2 update.

3 MR. MORRIS: It was a status conference. But I do
4 want to raise one more issue --

5 THE COURT: Sure.

6 MR. MORRIS: -- and see if Your Honor has a view. And
7 if not, we may have to get into more motion practice. We've
8 had a meet-and-confer. We've actually exchanged writings.
9 We've actually exchanged citations to case law. If it had to
10 be briefed, I think we could do it quickly and easily.

11 But the issue concerns, Your Honor, the secret nature
12 of the joint official liquidator's investigation. As Your
13 Honor knows and has -- as we've acknowledged, in the
14 recognition order, which is at docket 22, at paragraph 6, Your
15 Honor gave the liquidators the authority to issue subpoenas.
16 And we understand that.

17 But what Your Honor also did is give them authority to
18 issue subpoenas "in accordance with applicable procedural
19 rules". And they're not following those. They're not giving
20 any notice. They're not telling -- this is just an
21 investigation that's being done in secret that a debtor in the
22 United States under Chapter 11 could never do. They're not
23 telling us, right, we've actually --

24 THE COURT: These are rule 2004 subpoenas?

25 MR. MORRIS: Yeah.

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1 MR. MCDONALD: No. No, Your Honor. They're --

2 THE COURT: Whoa, I got a really excited reaction.

3 MR. MORRIS: I don't know what they are because we
4 haven't seen it.

5 THE COURT: Hang on a second. Just clarify this, Mr.
6 McDonald. What are they?

7 MR. MCDONALD: They're 1521(a)(4) subpoenas that Your
8 Honor authorized us to issue.

9 THE COURT: Okay.

10 MR. MORRIS: Okay. And so --

11 THE COURT: Thanks.

12 MR. MORRIS: And so we've heard the admission, in the
13 initial presentation, that some of these subpoenas -- and I
14 don't know if there are others, but were served on Planet
15 Payment, EII, i-payout. It wasn't clear if Xsigo had received
16 a subpoena. We're hearing about this for the first time today.
17 We don't know what is the scope of the subpoenas. Instead,
18 we've been told, up until today --

19 THE COURT: Can I jump in?

20 MR. MORRIS: -- that --

21 THE COURT: My thought --

22 MR. MORRIS: -- that they will --

23 THE COURT: Yeah, let me just jump in.

24 MR. MORRIS: If I could just -- okay.

25 THE COURT: I have an immediate thought --

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1 MR. MORRIS: Yeah.

2 THE COURT: -- which is, typically the recipient of a
3 subpoena is the directly affected party and has an entitlement
4 to object, at least in most procedural contexts I know. It
5 sounds like that's not SPGK. If SPGK is affected and learns of
6 these subpoenas, which you're saying you do, then I guess you
7 would need to object and come to me, if you want, and explain
8 to me why SPGK is an appropriate party entitled to object, or
9 you need to enlist the subpoena recipient, I would think.

10 MR. MORRIS: Correct. And that's really the problem.
11 That's the rub is that we don't have the opportunity to do
12 that. Instead, we're told by Ascentra that they'll let us know
13 if they think the subpoena implicates us. And yet we just
14 learned today for the first time that three, perhaps four
15 different -- I guess we knew about Planet Payment. We just
16 learned that these subpoenas were issued. They were issued for
17 the purpose of obtaining information against my client. And
18 the fruit of those subpoenas was used to create and support the
19 document that was filed in the Cayman Islands.

20 Obviously, it impacted my client. We had no notice of
21 it. They refused to tell us what they got. They refused to
22 tell us what they sought. And that's the concern that we have.
23 And we think that that violates the very rule that Your Honor
24 was just paraphrasing.

25 THE COURT: Right. Okay.

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1 MR. MORRIS: Right? And that's really -- so I guess
2 either --

3 THE COURT: Have you asked for a copy --

4 MR. MORRIS: We've asked for everything.

5 THE COURT: -- a copy of the production set?

6 MR. MORRIS: Yep. Won't get it. They'll let us know
7 if it impacts us. And they've just admitted here today that it
8 did impact us. And they're still refusing to give it to us.
9 And so I would like to avoid more motion practice. If the
10 Court has some guidance to say, if you're serving subpoenas
11 where are you going to use the fruits of it to sue SPGK, you
12 have to turn that over. And if not, if we have to brief it,
13 we'll brief it.

14 THE COURT: I can't just make a ruling on the spot
15 because I don't know the answer. I haven't received any
16 written submissions in advance. So I would say that is an
17 appropriate meet-and-confer topic for you all. And if you need
18 to come to me with a dispute, so be it.

19 I mean, I literally do not know what the -- I guess
20 it's 1521 procedural requirements are for notice to affected
21 parties or in what circumstance SPGK would have entitlement to
22 come in or not.

23 I will say, as a general matter, I think you
24 referenced no trial by ambush. And I do hope -- I certainly
25 agree, as a broad matter, with the no trial by ambush concept.

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1 To the extent discovery rights exist, they need to be met. And
2 to the extent one has a discretionary call, whether it be
3 grudging or more open, I always appreciate more openness. So I
4 can just say that. Maybe that's a slight thumb on the scale of
5 use in your conversations. But beyond that, I can't make any
6 particular ruling.

7 MR. MORRIS: I appreciate that, Your Honor. So why
8 don't we do this? Let's continue to confer. And sometime in
9 the first week of January, I suspect, if there's an issue or
10 two or three that we're unable to agree upon, perhaps we could
11 just -- and I don't want to do ten-page letters. These are
12 pretty narrow issues. We'd like them heard and adjudicated as
13 quickly as possible so that we actually can get on the business
14 of litigating these motions.

15 THE COURT: Okay. Fair. Do you want to emerge --
16 well, I can make myself available on short notice. My thought
17 would be to just sit tight and then, if and when you need me,
18 let you contact us and get seen quickly. If both parties would
19 rather, I could hold a date now. But I'll just tell you, I can
20 get you in on short notice, so that's probably better.

21 MR. MORRIS: Yeah, I would rather you enjoy the
22 holiday. Don't worry about us.

23 THE COURT: Okay. It won't ruin my holiday but --

24 MR. MORRIS: We'll call you if we need you.

25 THE COURT: Okay.

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1 MR. MORRIS: Hopefully we won't. And if we do,
2 hopefully it'll be on a very narrow set of issues.

3 THE COURT: Okay. That's fair. Let me just give Mr.
4 Pintarelli or Mr. McDonald a chance to say anything further if
5 they want.

6 MR. MCDONALD: Your Honor, for the record, Hugh
7 MacDonald, Pillsbury Winthrop Shaw Pittman, on behalf of the
8 foreign representatives.

9 Your Honor, a couple of points. The 30(b)(6) subpoena
10 was served after both motions had been filed, after we deposed
11 their witness who submitted a declaration, a former officer and
12 director, who submitted a declaration in support of one of
13 those. We marked over twenty-five exhibits at that deposition.
14 They have them. They didn't include any of those topics in
15 that 30(b)(6). We wanted the Court to be aware of that.

16 THE COURT: Okay.

17 MR. MCDONALD: And they knew -- they timed it
18 perfectly because they knew we were filing our papers only days
19 later. So it was a little bit of sandbagging going on here,
20 Your Honor. Just a little bit.

21 THE COURT: All right. I'm --

22 MR. MCDONALD: So really --

23 THE COURT: I --

24 MR. MCDONALD: You know --

25 THE COURT: No, I mean, that's --

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1 MR. MCDONALD: It's getting old. That's so bad.

2 MR. MORRIS: I'm -- yeah.

3 THE COURT: I'm just going to say there's sputtering
4 at the other table, and I would consider this sort of a tit for
5 tat, maybe without the -- maybe unilaterally imposed. But
6 okay. But I hear you.

7 MR. MCDONALD: Yes, Your Honor. With respect to the
8 preclusion statements, these are -- there are ongoing
9 proceedings in the Cayman Islands.

10 THE COURT: All right. What do you mean? Remind me
11 what you mean by that.

12 MR. MCDONALD: Counsel said that if Mr. Robinson does
13 not answer questions about facts or documents, beyond simply
14 the pleadings before this Court and before the Cayman court,
15 the foreign representative should be precluded from introducing
16 anything at the hearing.

17 Your Honor, there are ongoing proceedings in the
18 Cayman Islands, ongoing. There will be discovery in the Cayman
19 Islands. We don't know what's going to be produced. We don't
20 know what the parties are going to exchange. And we don't know
21 what's going to come up in those proceedings. They will be
22 aware of it as much as we're going to become aware of it. But
23 it's not going to happen today. It's not going to happen in
24 January. And by the time we eventually do get to a hearing,
25 things may change in the context of that proceeding.

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1 So I think it's inappropriate to preclude the foreign
2 representatives from introducing something at trial that right
3 now they may be considering or may not be considering. But
4 that's clearly privileged and that's clearly work product.

5 THE COURT: Right, the trial being the -- whatever the
6 right term is, I'll just say the Ascentra in liquidation
7 proceedings, in Cayman, proceeding against SPGK, pending in the
8 Cayman court, right?

9 MR. MCDONALD: Yes.

10 THE COURT: Okay.

11 MR. MCDONALD: This idea that they want to challenge
12 facts, a trustee in the United States would never be subject to
13 this. Whatever a trustee in a case obtains from third parties,
14 they do the same thing a liquidator does, comes in, looks at
15 the books and records, figures out if there are any claims,
16 works with their counsel to come up with those claims, files
17 those claims. There may be actual fact witnesses. There may
18 not be fact witnesses. It just may be a books and records
19 situation like a preference or a fraudulent transfer.

20 But you're not allowed to, like, go after the trustee
21 and say, well, you don't have any personal knowledge about
22 that, do you? Or why did you claim that that fact was more
23 important than this fact? Or what does that fact show us?
24 That's what they want to do. And we're --

25 THE COURT: All right. Look --

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1 MR. MCDONALD: We have a serious problem with that.

2 THE COURT: No, I understand the concern you would
3 have about that. And again, that's a topic for the meet-and-
4 confer. I mean, I would encourage pursuing that. And let's
5 just bring it to a head and figure out what we're going to do.

6 MR. MCDONALD: Your Honor, finally, I would submit
7 that since SPGK conceded to this Court that there would be
8 irreparable harm, conceded to this Court already that there is
9 a dispute over the ownership of these funds, and indeed, there
10 is a pending dispute with Cayman Islands over these funds, it's
11 really, I think, SPGK's burden to come forward and demonstrate
12 that something has changed that changes the situation that
13 they've already conceded existed.

14 THE COURT: Can I ask, to put a fine point on that,
15 they did not object to those findings and the entry of an order
16 at that time. I mean, does that exactly equal concession, or
17 did they --

18 MR. MCDONALD: It's a concession, Your Honor. It's a
19 permanent injunction.

20 THE COURT: Or is it a waiver?

21 MR. MCDONALD: It's probably both, because they were
22 present at the hearing. A permanent injunction was imposed.

23 MR. PINTARELLI: If I may, Your Honor. Not only that,
24 but they provided language for the order --

25 THE COURT: No, I remember the order, yes.

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1 MR. PINTARELLI: -- that we negotiated. It was
2 negotiated language in that order. And the basis for -- and
3 the language that they wanted was that they were -- the stay
4 was lifted, to the extent that they could bring a clean --

5 THE COURT: Wait, wait, wait, don't pollute my brain
6 with negotiated language I haven't seen. But I don't want to
7 get into this now because I'm not going to issue any ruling.
8 I'm just musing, in light of the repeated use of the word
9 conceded and whether that's accurate. And I think really, I
10 suspect I'll be hearing argument about that later. And that's
11 fine. And I'm not going to do anything with argument about it
12 now, so I'd rather --

13 MR. PINTARELLI: Understood.

14 THE COURT: -- leave it alone.

15 MR. PINTARELLI: Okay. All right.

16 MR. MCDONALD: Your Honor, with respect to Mr.
17 Hobden's declaration --

18 THE COURT: Yes.

19 MR. MCDONALD: -- this is not advocacy. This is an
20 expert of foreign law coming in to prove a matter of foreign
21 law to this Court, to have this Court recognize a foreign
22 proceeding. And they are presenting evidence to you about the
23 nature of the Cayman proceedings. And it doesn't matter if
24 it's a Pioneer or Ascentra proceeding. They are both official
25 liquidations and they are both of solvent entities.

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1 And the point we're making is someone has come before
2 this Court and made a statement. I'll just read this one. "In
3 my experience, Cayman Island liquidation proceedings are fair
4 and equitable insofar as all creditors and interest holders
5 have the opportunity to be heard by the Grand Court and no
6 creditors will be prejudiced on the sole basis that they are
7 foreign based. All creditors are treated equally regardless of
8 where they're domiciled."

9 It later goes on to state that Cayman proceedings are
10 a collective proceeding. That is the complete, diametrical
11 opposite statement that another Harneys partner is advocating
12 in this proceeding. And this is not a matter of saying I get
13 to advocate on behalf of my client.

14 THE COURT: Right. I hear you. Look, let me -- I'm
15 giving you a little bit of runway to at least get out the
16 essence of your position. It's a position that's going to be
17 argued later. I'll deal with it later as needed. I take your
18 point.

19 And look, for what it's worth, this Court is very
20 familiar with Chapter 15 proceedings in aid of liquidation
21 proceedings in the Cayman Islands. I will say that the Global
22 Cord Blood situation that was before me was unusual. And it
23 had facets that were not common. And it is very common for
24 Chapter 15 proceedings tied to Cayman main proceedings to go
25 forward here with absolutely no batting of eyes or anything

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1 being seen as being amiss. So I'll make that general
2 observation and probably stop talking because I'll just create
3 problems.

4 MR. MCDONALD: Can I just comment briefly on the --

5 THE COURT: Sure.

6 MR. MCDONALD: -- the discovery issue. As Mr.
7 Pintarelli informed the Court, we have issued subpoenas under
8 the power granted to us. Generally, those subpoenas are not
9 filed. There's no notice. That is just done. The SPGK team
10 was aware of the Planet Payment subpoena. They never made a
11 demand in this court. They never said that -- they never filed
12 anything about it. And that was clearly aimed at figuring out
13 who has ownership of those funds.

14 The additional subpoenas that have been issued,
15 especially the EII one, precluded any claim or any motion
16 practice dealing with SPGK. That was really to get to the back
17 office operations of Ascentra to figure out everything about
18 the assets and liabilities of Ascentra.

19 Going forward -- and I think, Your Honor, in your
20 decision -- I will always mispronounce this name, Viacao --
21 Viacao decision --

22 THE COURT: Right.

23 MR. MCDONALD: -- that you distinguished. There is a
24 quote from your opinion here. It says, "Regardless of whether
25 it did or did not have a theoretical entitlement to seek

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1 discovery, because the party's status as a mere discovery
2 target" -- and Your Honor quotes -- "is not cause for allowing
3 the type of discovery that essentially amounts to a broad
4 intrusion into the foreign representative's investigative
5 pursuits". This is on page 17 of Your Honor's opinion.

6 So we would submit, Your Honor, to the extent there
7 are ongoing investigations, that is within the purview of
8 assets and liabilities of Ascentra, SPGK is not entitled to
9 find out about all that or get those documents. That is
10 outside the scope of what's at issue here. If it relates to
11 them, but not everything relates to SPGK.

12 THE COURT: Right.

13 MR. MCDONALD: As Mr. Pintarelli informed this Court,
14 we have located additional assets, have gotten them by use of
15 discovery devices, and we have some funds in escrow, and we
16 will decide how to deal with that in the future.

17 THE COURT: Okay. I got it. Look, I think we're -- I
18 had in mind you would stand up for a few brief punchy
19 rejoinders to what we've heard, because you already went first
20 and your adversary went second. And you've been up for some
21 time. I think I have your points.

22 And again, I'm just going to emerge with telling you
23 to continue talking and then come to me when you need. I
24 guess, since you've said a lot, I'll give your adversary an
25 opportunity, if there's anything you really need to get into,

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1 although I think that everything is just, as I said, being teed
2 up for future discussion.

3 MR. MORRIS: I think enough has been said today, Your
4 Honor. I'll just reserve my rights, and we'll deal with it.
5 Hopefully we'll chat in the next few days.

6 THE COURT: Great.

7 MR. MORRIS: If we can come to an agreement, great.
8 If not, we'll present those issues in a formal way to Your
9 Honor.

10 THE COURT: Okay. I stand ready. I do encourage you
11 to actually push to get this motion heard. I mean, I guess
12 it's really movant's interest maybe more than mine. But I also
13 get itchy if something's pending and just procedurally bogged
14 down. So let's try to get it --

15 MR. PINTARELLI: Your Honor, we --

16 MR. MORRIS: I will say that, if we had just done the
17 deposition in September, in accordance with the time line on
18 the topics that have been noticed, we would have been ready.
19 Maybe the trial would have been over at this point.

20 THE COURT: I --

21 MR. MORRIS: Instead, we spent, like, three months on
22 whether or not we can have a deposition in a contested matter.

23 THE COURT: No, look, I understand. I will say -- I
24 should just say -- I'll just leave it at that. I'm not going
25 to lay blame any particular place. I think there's been so

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1 much back and forth contention that it's just taken time.

2 That's lamentable.

3 MR. MCDONALD: And we've committed to also working
4 with them to find a mutually agreeable date and format for any
5 deposition that takes place.

6 THE COURT: Right.

7 MR. MCDONALD: It's obviously going to be in the new
8 year at this juncture as well. So we're going to --

9 THE COURT: Right. Fair enough.

10 MR. MCDONALD: All right?

11 THE COURT: Okay. Well, thanks very much. Enjoy your
12 holidays.

13 MR. PINTARELLI: Thank you.

14 MR. MCDONALD: You as well, Your Honor.

15 THE COURT: It's sincerely nice to see you in person.

16 MR. MCDONALD: Enjoy your time off as well.

17 THE COURT: Thanks. And we're adjourned.

18 MR. MORRIS: Thank you.

19 (Whereupon these proceedings were concluded at 3:30 PM)

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C E R T I F I C A T I O N

I, Sharona Shapiro, certify that the foregoing transcript is a true and accurate record of the proceedings.



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